

1 Q. And when do you think that policy
2 came out?

3 A. It had to have been after we
4 received the capability to process checks on the
5 computer.

6 Q. You don't have a copy of that
7 policy?

8 A. I don't have any copy of anything
9 that I did at NCO. My desk was cleaned out
10 while I was in an afternoon conference call.

11 Q. And what did this written policy
12 say again?

13 A. It discussed the obtaining of
14 check information by -- from debtors as well as
15 altering checks.

16 Q. Did it say anything about the
17 procedure used to resubmit an NSF check?

18 A. I don't recall.

19 Q. You don't recall that it did say
20 that?

21 A. There was a form that we would use
22 if we were altering a check.

23 Q. But as far as you recall, the
24 policy that you're talking about, this written

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

VALERIE HUE,)
Plaintiff,)
v.)
NCO FINANCIAL SYSTEMS, INC.,) Civil Action No.
a Delaware corporation,) 05-225-KAJ
trading as NCO FINANCIAL)
COMMERCIAL SERVICES,)
Defendant.)

Deposition of KIM MARLOW taken pursuant to notice at the law offices of Parkowski, Guerke & Swayze, P.A., 116 West Water Street, Dover, Delaware, beginning at 9:15 a.m. on Wednesday, March 8, 2006, before Robert Wayne Wilcox, Jr., Registered Professional Reporter and Notary Public.

APPEARANCES:

JEREMY W. HOMER, ESQ.
PARKOWSKI, GUERKE & SWAYZE, P.A.
116 West Water Street
Dover, Delaware 19903
for the Plaintiff,

ELIZABETH K. FITE, ESQ.
SESSIONS, FISHMAN & NATHAN, L.L.P.
15316 North Florida Ave - Suite 100
Tampa, Florida 33613
for the Defendant

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1	1 ALSO PRESENT: VALERIE HUE DINA SHAALTEL, NCO Financial Commercial Services	Page 4
2	-----	
3	KIM MARLOW, the witness herein, having first been duly sworn on oath, was examined and testified as follows:	
4	BY MR. HOMER:	
5	Q. Good morning. My name is Jeremy Homer. I'm 10 the attorney representing Valerie Hue in this matter. 11 This is the case of Valerie Hue v. NCO. It's March 8, 12 2006, a little bit after 9 a.m., and we're at our Dover 13 offices in Delaware.	
14	Ms. Marlow, what's your address and 15 phone number?	
16	A. My address is 170 Cantwell Drive, Dover, 17 Delaware. My phone number is (302) 677-0558.	
18	Q. Okay. During the course of this deposition, 19 I'm going to be asking you a series of questions. If you 20 don't understand the question, I'd ask that you just make 21 me repeat it --	
22	A. Okay.	
23	Q. -- or rephrase it to make sure that you don't 24 try to answer a question that you don't understand.	
	Page 3	
1	A. Okay.	
2	Q. Is that clear?	
3	A. Sure.	
4	Q. Is there any reason why your ability to answer 5 the questions today would be impaired for any reason?	
6	A. No.	
7	Q. Okay. Are you on any medication, for example?	
8	A. I'm on medication, yes.	
9	Q. But it wouldn't affect your ability to answer?	
10	A. No.	
11	Q. Okay. What's your educational background?	
12	A. I graduated from high school, did a technical 13 college course. And that's basically it.	
14	Q. Okay. Could you just briefly run through your 15 employment history from the time you got out of high 16 school to the present? For each position you have, just 17 briefly tell me how long you were at the job and what 18 your job duties were.	
19	A. Right out of high -- while I was working -- in 20 high school I worked for a beauty shop, because that's 21 what my trade was.	
22	Q. Okay.	
23	A. And I worked for a couple of beauty shops, as 24 a matter of fact. And maybe four years of that.	
	Page 5	
1	Q. Okay. Was it named NCO at that time?	
2	A. No. It was Milliken & Michaels.	
3	Q. Okay. Have you worked for that entity ever	
4	since 1997, either Milliken & Michaels or NCO?	
5	A. Yes. I did.	
6	Q. Okay.	
7	A. Yes. I am.	
8	Q. Could you, from the time that you worked at 9 Milliken & Michaels, run through the different jobs that 10 you had, approximately when you had them, and what the 11 job duties were at each position?	
12	A. The first job when I got hired there, I was in 13 collections. It was a small balance at that time. Then 14 I went to a mid balance position approximately maybe a 15 year after the small balance position. And then I went 16 to a -- it's called a quality control position. Then I 17 went to a worldcom position, which is like a -- it's 18 like a little portfolio that they had that -- they put me 19 on a special program. And that's what I worked for 20 probably three years.	
21	Q. At each of these positions, these were 22 basically positions where you would attempt to collect 23 debts?	
24	A. Yes.	B-323

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<p>1 Q. Okay.</p> <p>2 A. Yes.</p> <p>3 Q. What after that?</p> <p>4 A. The last position before I was a collector was</p> <p>5 a small balance management position.</p> <p>6 Q. When did you have that?</p> <p>7 A. That was four -- approximately four years ago.</p> <p>8 Q. How long did you have that position?</p> <p>9 A. Probably a year. Maybe a little bit longer.</p> <p>10 Q. Okay. Then after that what position did you</p> <p>11 have?</p> <p>12 A. It was a mid balance management position.</p> <p>13 Q. What did you do in that position?</p> <p>14 A. Oversaw a collection group of mid balance</p> <p>15 collectors.</p> <p>16 Q. How long did you have that job?</p> <p>17 A. I guess about two years. Maybe a little bit</p> <p>18 more.</p> <p>19 Q. Okay. Can you give me approximate dates now</p> <p>20 that you're talking about?</p> <p>21 A. Probably 2003. I was in small balance at that</p> <p>22 time. 2004 to 2005 I was in mid balance.</p> <p>23 Q. What was the responsibilities of a mid balance</p> <p>24 manager that you had in 2004 and 2005?</p>	Page 6	<p>1 Q. When you say "Rick," who do you mean?</p> <p>2 A. Rick Boudreau, who was the general collections</p> <p>3 manager at the time.</p> <p>4 Q. That was back in what time period?</p> <p>5 A. 2001.</p> <p>6 Q. Okay. So you worked for --</p> <p>7 A. Several.</p> <p>8 Q. -- Rick Boudreau as a small balance manager,</p> <p>9 and then you worked for a time for Valerie Hue in that</p> <p>10 same position.</p> <p>11 A. Yes.</p> <p>12 Q. In 2003 what job did you have? Was that with</p> <p>13 small balance management still?</p> <p>14 A. Yes.</p> <p>15 Q. Okay. You reported to Valerie Hue, is that</p> <p>16 correct, during 2003?</p> <p>17 A. That's correct.</p> <p>18 Q. Then in 2004 you reported to Brian Laiche?</p> <p>19 A. That's correct.</p> <p>20 Q. Okay. Did you ever, for any point in time,</p> <p>21 actually hold the position even on a temporary basis that</p> <p>22 Valerie Hue held before her termination?</p> <p>23 A. Before her termination?</p> <p>24 Q. After her termination.</p>	Page 8
<p>1 A. It was to oversee a group of collectors in a</p> <p>2 certain range of dollar fee amount collected, and I was</p> <p>3 to oversee their accounts, them themselves, policies and</p> <p>4 procedures, system. That's basically it.</p> <p>5 Q. Did you have collection responsibilities</p> <p>6 yourself? Did you collect debts yourself or did you just</p> <p>7 oversee other people's efforts?</p> <p>8 A. At times I would collect debts myself. I</p> <p>9 didn't essentially have a unit to work from, but I did</p> <p>10 help in collections, yes.</p> <p>11 Q. Okay. Who did you report to during this</p> <p>12 period that you were the mid balance manager --</p> <p>13 collection manager?</p> <p>14 A. At that point it was Brian Laiche.</p> <p>15 Q. When you say "that point," what do you mean?</p> <p>16 A. My last mid balance position was I was</p> <p>17 reporting to Brian Laiche at that time.</p> <p>18 Q. When was that?</p> <p>19 A. I had fluctuated back and forth under Valerie</p> <p>20 and Rick, so it was -- when Valerie got promoted, I was</p> <p>21 small balance collection manager.</p> <p>22 Q. When you say "Valerie," you mean Valerie Hue,</p> <p>23 the plaintiff in this case?</p> <p>24 A. Correct.</p>	Page 7	<p>1 After she was terminated, did you do her</p> <p>2 job for a time period?</p> <p>3 A. Yes.</p> <p>4 Q. When was that?</p> <p>5 A. Directly right after she was let go.</p> <p>6 Q. Okay. For how long did you perform that job?</p> <p>7 A. Probably up until maybe six months or better.</p> <p>8 And then they changed the position to senior management.</p> <p>9 And I was labeled senior management instead of</p> <p>10 collection -- general collections manager.</p> <p>11 Q. Okay. Did the function change after that six-</p> <p>12 month period was over?</p> <p>13 A. Yes.</p> <p>14 Q. Did your job duties change? How did they</p> <p>15 change?</p> <p>16 A. We would report -- I would have to report</p> <p>17 to -- just like if I was reporting to Valerie Hue, I</p> <p>18 would have to report to someone else.</p> <p>19 Q. Okay.</p> <p>20 A. I had different things and schedules and</p> <p>21 programs that I'd have to do that had to be reported to</p> <p>22 someone else.</p> <p>23 Q. When you --</p> <p>24 A. I wasn't the final decision-maker.</p>	Page 9

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<p>1 Q. Okay. When you held the job that Valerie Hue 2 had performed in that six-month period, who did you 3 report to during that time period? 4 A. Kathy Obenshain. 5 Q. Okay. Was that for the whole six-month 6 period, or did she leave at some point during that 7 period? 8 A. She left during that period of time. 9 Q. Then who did you report to? 10 A. Brian Laiche. 11 Q. Okay. Can you tell me what you did to prepare 12 for the deposition today, if anything at all? 13 A. Just reviewed significant pieces of the check 14 handling policy. 15 Q. Okay. Were these documents that you reviewed? 16 Did you review documents? 17 A. My statement that I reviewed. 18 Q. Anything else? 19 A. No. 20 Q. Okay. Did you have any discussions with NCO's 21 attorneys? 22 A. Yes. 23 Q. Okay. How long were those discussions? 24 A. A couple hours.</p>	<p>Page 10</p> <p>1 December of 2003? 2 A. It's the same policy. If you're talking about 3 the NSF correlation, it is -- you would call the debtor 4 to verify the funds, call the bank to make sure the funds 5 were available, and then to get your manager to find out 6 if it was something that needed to be processed at that 7 time. We didn't have what was called a redeposit at the 8 time, nor do we still. 9 Q. Well, I think you just sort of explained a 10 little bit about the process. But can you tell me 11 specifically, if you recall, what the policy itself was 12 in terms of what checks could be redeposited that had 13 been returned NSF? What criteria were used to determine 14 whether you could redeposit them or not? I'm talking 15 again about December of 2003. 16 A. That's pretty much what I said. It would have 17 to be -- the collector would have to call the debtor to 18 verify the fund -- to make sure there was sufficient 19 funds in order for the check to be redeposited and/or 20 they would call the bank to make sure there were funds 21 available at that time to represent the check. 22 Q. When you say "and/or," which was it? Do you 23 have to do both or do you just have to do one -- 24 A. You had to do both, but --</p>
<p>1 Q. Okay. When was that? Just before today? 2 A. Yesterday. 3 Q. Yesterday. 4 Okay. Are you familiar with the term 5 "NSF"? 6 A. Yes. 7 Q. What is that? 8 A. That's a nonsufficient funds check. 9 Q. Okay. 10 A. That's when a check comes back from the bank 11 for nonsufficient funds. 12 Q. Okay. Are you familiar with a policy that NCO 13 had for processing checks that had been returned NSF. 14 A. Yes. 15 Q. Okay. Did the policy change over time? 16 A. It was tweaked over time. 17 MS. FITE: Object to form. Go ahead. 18 You can answer. 19 THE WITNESS: It was tweaked over time. 20 I mean, there was things that were added to the policy to 21 change it a little bit, but for the most part, it was the 22 same policy. 23 BY MR. HOMER: 24 Q. Okay. Can you tell me what the policy was in</p>	<p>Page 11</p> <p>1 Q. -- or the other? 2 Excuse me. Don't talk over my question. 3 Okay? 4 A. Sorry. 5 Q. The court reporter needs to get it down. 6 Okay. The question, again, was: You 7 said "and/or." Did you mean you have to do both those 8 two things, or could you do either one? By that I'm 9 talking about verifying with the bank or contacting the 10 debtor. 11 A. You had to do both, but at -- 12 Q. And -- I'm sorry. Go ahead. 13 A. But at times there was where a bank did not 14 verify the check or the funds. There was certain banks 15 that wouldn't verify. You could call them up, and they 16 wouldn't verify over the phone. So then you would only 17 have the debtor's word that the check was, you know, okay 18 for the deposit. 19 Q. Okay. Was it the collectors that contacted 20 the bank or someone else? 21 A. The collector was responsible to contact the 22 bank. 23 Q. Okay. This was in the period of December of 24 2003?</p> <p style="text-align: right;">B-325</p>

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<p>1 A. Yes.</p> <p>2 Q. Okay. If the bank verified the funds, they</p> <p>3 would still call the debtor, or would that be enough?</p> <p>4 A. At times it would be enough if a manager</p> <p>5 signed off on it. If the debtor had talked to the</p> <p>6 collector and the debtor had stated there was funds going</p> <p>7 to be available at this time -- we had just made a big</p> <p>8 deposit -- the collector would ask for a deposit slip to</p> <p>9 show that there was a deposit actually definitive to make</p> <p>10 that actual check good. If that didn't happen, they</p> <p>11 would go to the manager and talk about the situation.</p> <p>12 And it was up to the manager at that time to either say,</p> <p>13 yes, it was okay to go ahead and try it or, no, we're not</p> <p>14 going to do it until we get authorization.</p> <p>15 Q. When you say "authorization," do you mean --</p> <p>16 A. From the bank.</p> <p>17 Q. From the bank.</p> <p>18 A. And the debtor can also three-way the</p> <p>19 collector on the phone at that time and get a three-way</p> <p>20 conversation with the bank to make sure that the funds</p> <p>21 were available at that time.</p> <p>22 Q. Okay. But is it your testimony that even if a</p> <p>23 bank verified the funds you still had the collector call</p> <p>24 the debtor to see if the funds were good?</p>	Page 14	Page 16
<p>1 A. If they could get a hold of them, yes.</p> <p>2 Q. Well, what if they couldn't get a hold of</p> <p>3 them?</p> <p>4 A. Then they would make the decision to -- that</p> <p>5 was a manager decision to make that decision to run that</p> <p>6 check or not.</p> <p>7 Q. Okay. Where did you learn about this policy?</p> <p>8 A. Through corporate.</p> <p>9 Q. When you say that, can you be a little more</p> <p>10 specific? Who told you that that was the policy?</p> <p>11 A. It was done in e-mail form or written form at</p> <p>12 some point. I don't have that with me. But we had memos</p> <p>13 that come out quite frequently and e-mails that came out</p> <p>14 quite frequently. And we were to tell the group of any</p> <p>15 changes in policy or procedure. And we had morning</p> <p>16 meetings every morning that would discuss policy and</p> <p>17 procedure. Or we'd have meetings during the afternoon if</p> <p>18 there was something that came up periodically through the</p> <p>19 day.</p> <p>20 Q. Well, I can represent to you that we've asked</p> <p>21 for this written policy that dealt with check handling</p> <p>22 policies and procedures, and we've been told that there</p> <p>23 isn't any written policy about it.</p> <p>24 MS. FITE: Object to form. <i>B-324</i></p>	Page 15	Page 17
<p>1 BY MR. HOMER:</p> <p>2 Q. But you're telling me there was a written</p> <p>3 policy that states what you just told me about?</p> <p>4 A. Yes. There has been.</p> <p>5 Q. Can you tell me what document is that in? Do</p> <p>6 you know? Is it an e-mail? Is it a written memorandum?</p> <p>7 In what form was that document?</p> <p>8 A. I'm sure it was done in an e-mail form, but it</p> <p>9 was definitely in a memorandum form as probably an</p> <p>10 attachment to something that was sent over speaking about</p> <p>11 the check handling policy and what policy and procedures</p> <p>12 are and if there was any changes. We got -- we had</p> <p>13 e-mails all the time. We had memos all the time on</p> <p>14 policy and procedures. They were sent -- I can't even</p> <p>15 tell you -- every day.</p> <p>16 Q. You say the policy changed from time to time.</p> <p>17 There were tweaks to it. Can you tell me what you know</p> <p>18 about that -- what you recall about the changes to it?</p> <p>19 A. Sure. Status changes where you would put a</p> <p>20 check -- if it's an NSF check, it would be in a 59</p> <p>21 status. That would be from accounting -- to put it in a</p> <p>22 59 status. We had a memo on policy and procedure about</p> <p>23 not being able to change that status -- that no one other</p> <p>24 than accounting could change that status.</p> <p>1 Q. When you say "that status," what are you</p> <p>2 talking about?</p> <p>3 A. It's actually a status code that we put on it</p> <p>4 so that we can identify if it's been NSF or not. There's</p> <p>5 paying codes. There's other -- gosh. There's paying</p> <p>6 codes. There's hold codes. There's check codes.</p> <p>7 There's all kinds of different codes that we have. And</p> <p>8 this particular code of 59 was an NSF code. And that NSF</p> <p>9 code was not to be changed by anyone other than</p> <p>10 accounting.</p> <p>11 Q. Well, how did that affect the policy you just</p> <p>12 described to me, which is, if I can characterize it --</p> <p>13 A. Sure.</p> <p>14 Q. -- that the collector had to verify with both</p> <p>15 the bank and the debtor that the funds were available.</p> <p>16 If they couldn't get the verification</p> <p>17 from the bank, sometimes they went by just what the</p> <p>18 debtor said. Have I stated the policy correctly?</p> <p>19 A. Correct.</p> <p>20 Q. Okay. How did what you just describe modify</p> <p>21 that policy in any way about the 59 checks?</p> <p>22 A. With the 59 status, you could not put a check</p> <p>23 on. You could not recreate. You could not redip. You</p> <p>24 could not do any of those functions without that status</p>	Page 17	

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1 being changed. It would be a hold for that policy. So a
 2 collector could actually go in and change that status.
 3 And if there was a post date on that account, it would
 4 run that check through because of the status change.

5 Q. When was that policy in effect?

6 A. Oh, geez. Sometime in the last couple of
 7 years.

8 Q. Was it in effect in December of '03?

9 A. I think that it was.

10 Q. What --

11 A. I can't be sure, but I think that it was.

12 Q. Was there a document that shows that?

13 A. Yes.

14 MR. HOMER: Okay. I'm going to ask that
 15 this memorandum from Phil Weaver dated June 5, 2001 be
 16 marked as Exhibit 1.

17 (Marlow Deposition Exhibit No. 1 was
 18 marked for identification.)

19 BY MR. HOMER:

20 Q. Ms. Marlow, could you review the document
 21 that's been marked Exhibit 1, please?

22 A. (The witness complied with counsel's request.)

23 Q. Do you remember the document?

24 A. No. I can't say. I know the policy.

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1 Q. Okay. Do you know when that was?

2 A. I have no idea.

3 Q. Well, do you know when at what point in time
 4 you stopped having to get Phil Weaver's approval for
 5 checks over \$1,000?

6 A. No. I can't recall.

7 Q. Were you ever involved in a review process of
 8 a check for over a thousand dollars while Phil Weaver was
 9 there?

10 A. Was I personally?

11 Q. Yes.

12 A. Not to my knowledge.

13 Q. Okay. Do you know that this policy that's
 14 stated in this Exhibit 1 was followed by the NCO offices?

15 A. I assumed it was.

16 Q. I'm not asking for your assumption.

17 A. Yes.

18 Q. Do you know?

19 You said you weren't involved yourself
 20 in any checks over a thousand dollars. So how would you
 21 know that the policy was followed?

22 MS. FITE: Object to form. You can
 23 answer.

24 A. I don't know if other offices did it, but I'm

Page 19

Page 21

1 Q. Okay. It says here with respect to request
 2 for redeposits. Would that refer to NSF checks?

3 A. Yes.

4 Q. Okay. It says that they have to be directed
 5 to immediate supervisor for approval, and then, once
 6 they're approved at that level, any deposit redeposited
 7 over \$1,000 gross had to go to Phil Weaver so he could
 8 personally review it. Was that the policy?

9 A. Yes.

10 Q. When was Phil Weaver working for NCO?

11 A. Up until -- and don't quote me on this,

12 because I don't really remember when he was let go or he
 13 decided to leave. Or I don't even know what the
 14 parameters of that was. I would say 2004. Sometime in
 15 2004.

16 Q. Okay. Was this policy in effect, then, that
 17 no NSF check could be redeposited without Phil Weaver's
 18 approval for as long as he worked there? Was that policy
 19 in effect all that time?

20 A. I can't answer that. It could have changed
 21 after that. I don't know.

22 Q. To your recollection, was it in effect all the
 23 time that he worked there?

24 A. Up until the next policy change. B-327

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1 sure that we did it in our office. I was a small balance
 2 manager, so my checks were primarily under a thousand
 3 dollars. So I didn't have that much of a situation with
 4 anything over a thousand dollars in fee.

5 Q. Did you ever have a situation when you were
 6 involved in the review of an NSF check of over a thousand
 7 dollars?

8 A. Not to my recollection.

9 Q. Okay. Now, I take it you never had to have a
 10 check that was over a thousand dollars reviewed by Phil
 11 Weaver for approval.

12 A. Not to my knowledge, no.

13 Q. Okay. So how would you know that Dover
 14 followed this policy that's in Exhibit 1?

15 A. I would think that any policy and procedure
 16 that came across to Ms. Hue or any other supervisor at
 17 that time would have been followed properly. I can't say
 18 that they were, but...

19 Q. So you don't have any personal knowledge that
 20 the policy was followed?

21 A. I have no idea.

22 Q. Okay. Isn't it true that at one time NSF
 23 checks were automatically redeposited without any kind of
 24 review process at all?

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<p>1 Q. Okay. What do you recall about the 2 discussions with him? 3 A. I have no clue. 4 Q. Did you have any discussion with Kathy 5 Obenshain about it? 6 A. When I had this discussion with Ted Fox, Kathy 7 Obenshain was present, yes. 8 Q. Okay. Did you have any other discussions with 9 her other than the one you had with Ted Fox about the 10 subject matter of Exhibit 2? 11 MS. FITE: Object to form. I don't 12 understand the question because I don't think that she 13 was having a conversation with them about her statement. 14 I think that their conversation -- 15 MR. HOMER: I said about the subject 16 matter of the statement. 17 MS. FITE: Did you understand the 18 question? 19 A. Can you repeat that for me? 20 Q. Did you have any discussions with Kathy 21 Obenshain other than the one that you just said you had 22 with both Ted Fox and Kathy Obenshain regarding the 23 subject matter of your statement which is Exhibit 2? 24 A. I recall that I did. I spoke to her about --</p>	Page 38	<p>1 A. -- do that, yes. 2 Q. Now you're telling me that perhaps Fox was 3 present when you had another discussion with Kathy 4 Obenshain. Is that right? 5 MS. FITE: Object to form. 6 Are these telephone discussions where 7 you didn't know who was listening in? 8 THE WITNESS: Yes. I mean, this 9 happened all the time. We had conference calls, and 10 people would listen that you didn't know that were there. 11 And I can't be for sure if Ted Fox was available or on 12 that call at that time. 13 BY MR. HOMER: 14 Q. But he might have been? 15 A. He could have been. 16 Q. Okay. Other than that, though, you're not 17 aware that -- 18 A. No. 19 Q. -- Fox was involved in any other -- you had no 20 other discussion with Fox -- 21 A. No. 22 Q. -- about this? 23 A. No. 24 Q. Okay. Well, the answer to that would be yes,</p>
<p>1 she asked me about what do you mean by "get them all on." 2 And I told her that I heard her say to Val to get -- 3 Ms. Hue to get those checks on. 4 Q. So after you wrote this statement -- 5 A. Yes. 6 Q. -- that's Exhibit 2, you had a discussion with 7 Kathy Obenshain about the statement? 8 A. I did with Ted Fox present. They were both 9 there at the time. It wasn't just a one-on-one 10 conversation with her. 11 Q. So, then, when you did talk with Mr. Fox, you 12 did have a discussion about Valerie Hue. There was some 13 discussion about Valerie Hue. 14 A. I didn't talk to Ted Fox about Valerie Hue. 15 Ms. Obenshain asked me about my statement about "get them 16 all on." 17 Q. Okay. That was in the presence of Mr. Fox? 18 A. I assumed it was in the presence of Mr. Fox. 19 I don't know for sure that he was there or not. 20 Q. Okay. Well, I thought you told me before that 21 the only conversation you had with Ted Fox was when he 22 requested the statement that became Exhibit 2. 23 A. Was when he asked me to -- 24 Q. Right.</p>	Page 39	<p>1 not no. Right? 2 Let me restate the question for you. 3 A. Okay. 4 Q. Again, if you could, tell me how many times 5 did you have any discussion with Mr. Fox about the 6 subject matter of Exhibit 2 regarding the policies and 7 procedures that were used to handle checks at the Dover 8 office. 9 A. Once to my knowledge. 10 Q. That was when he requested that you give the 11 statement? 12 A. That is correct. 13 Q. But there's a possibility he might have been 14 listening in on a phone conversation you had with Kathy 15 Obenshain? 16 A. That is correct. 17 Q. Okay. 18 A. That is possible. 19 Q. How many conversations did you have with Kathy 20 Obenshain about this other than the one where you know 21 Ted Fox was present? 22 A. Just the one right after when she asked me 23 about what I had stated in the memo. 24 Q. Okay. Other than Kathy Obenshain and Eric</p>

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1 Shaw and Ted Fox, did you have any discussions with
 2 anybody else at NCO? I guess also you mentioned you had
 3 some discussion with Valerie Hue about it. Did you have
 4 any discussion with anybody else at NCO about the subject
 5 matter of this Exhibit 2?

6 A. I don't recall, other than my husband
 7 probably. But other than that, I don't recall that
 8 I've -- I did.

9 Q. Okay. Did you discuss it with any attorney of
 10 NCO at any time before Valerie Hue was fired?

11 A. No.

12 MR. HOMER: Okay. Can we have that
 13 marked as Marlow 3, please?

14 (Marlow Deposition Exhibit No. 3 was
 15 marked for identification.)

16 BY MR. HOMER:

17 Q. Ms. Marlow, I'm handing you now Exhibit
 18 Marlow 3. It's also Shaw Exhibit 1.

19 Ms. Marlow, have you seen this document
 20 before?

21 A. I don't recall seeing this document, no.

22 Q. Okay. I'm going to read to you a couple
 23 passages from it, and I'm going to ask you some questions
 24 about it. The first paragraph, it says, "You have asked

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1 Q. The second --
 2 A. Oh, I'm sorry.
 3 Q. In the second paragraph, you write, "Then we
 4 pulled each collector in one by one and discussed the
 5 checks that were to be run and the level of comfort of
 6 them clearing."

7 A. Mm-hmm.

8 Q. Okay. I guess the first question is: When
 9 you say "we" there, are you referring to yourself and
 10 Eric Shaw?

11 A. No.

12 Q. Who are you referring to?

13 A. That was our policy. That was what we did as
 14 a group. That would be -- each month we would get
 15 together and do a round robin table theme. And Val,
 16 myself and Eric would be present, and we would sit with
 17 the collector and we'd find out if this check would
 18 actually clear or not clear.

19 Q. So "we" refers to --

20 A. All. All managers.

21 Q. That would be you, Valerie, Eric Shaw?

22 A. Mm-hmm.

23 Q. Anybody else?

24 A. Just the collector that we pulled in at the

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1 me to explain to you the incidents that occurred toward
 2 the end of the month of December 2003. I was given a
 3 directive by Valerie Hue to acquire a list of all NSF
 4 checks to review with the large and super mid collectors.
 5 I was to advise her of how much net fee was available in
 6 nonsufficient funds checks. I was then instructed to
 7 review with each individual collector the status of their
 8 nonsufficient funds checks for the purpose of locating
 9 additional fees we could also add on to the end of the
 10 month figures."

11 Then skipping down to the third
 12 paragraph, it says, "In reviewing the checks with the
 13 collectors, there was some judgments made for some of the
 14 checks not to run due to stop payments and/or too many
 15 NSFs in some cases. I myself did not allow those to
 16 run."

17 Now, going back to your memo, which is
 18 Exhibit 2, you say there in the second paragraph -- and
 19 I'll quote again -- then we pulled each collector in one
 20 by one and discussed the checks that were to be run and
 21 the level of comfort of them clearing, end quote.

22 You see where it says that in the second
 23 paragraph?

24 A. Where are you seeing it?

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1 time.

2 Q. Okay. So you would have one collector and
 3 three of you reviewing each check --

4 A. Correct.

5 Q. -- that was returned NSF?

6 A. Correct.

7 Q. Okay. Is it your understanding that what you
 8 described here about running through the NSF checks one
 9 by one is consistent with what Eric Shaw described in his
 10 memorandum that we just read about?

11 A. Yes.

12 Q. Okay. Was there something improper about that
 13 process that you and Eric and Valerie Hue ran when they
 14 brought in the collectors and you went through the
 15 checks, the NSF checks?

16 A. No.

17 Q. Okay. What was the purpose of going through
 18 the checks one by one?

19 A. To get a sense of comfort if the check was
 20 available to run or not, meaning did they talk to the
 21 debtor or the bank at that time, inquisitioning the
 22 collector at the time to find out if there were
 23 sufficient or ample funds in order to run the check at
 24 that point. Because at that time it was the end of the

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1 month and we were trying to get as much fee on the books
2 as we probably could.

3 Q. But why would you need to do that? Why would
4 you need to get a level of comfort?

5 A. To assure that the check would clear.

6 Q. Let's say that the bank had been contacted and
7 the check had been verified. The collector had told you
8 they contacted the debtor and that there were funds
9 available. Why do you need to have a meeting to go over
10 and obtain another level of comfort before you submit the
11 check?

12 A. That's actually just something that we did as
13 a group just to make sure that everything was, you know,
14 completed correctly.

15 Q. When Mr. Shaw talked about exercising
16 judgment, what was he talking about there?

17 MS. FITE: Object to form. Answer if
18 you know.

19 A. Like if -- as far as Eric's judgment, I can't
20 say what his judgment is. But if you're asking me for my
21 judgment, that's a whole different story.

22 Q. Well, you testified that the process that you
23 were talking about was the same one that Eric talked
24 about, and he does talk about sitting down and going

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1 Q. Well, let's take an example. Let's say the
2 bank didn't verify.

3 A. Okay.

4 Q. The collector indicated he contacted the
5 debtor and the debtor verified the funds. What judgment
6 would come into play at that point in time for
7 resubmitting the check. Isn't that all you really needed
8 to know -- that he had verified the funds?

9 A. That would be a manager's discretion. Not
10 exactly, because it actually didn't clear through -- it
11 wouldn't have cleared through the bank, because you just
12 told me that the bank told you that there was no funds
13 available but the debtor said there was. So that was the
14 judgment.

15 Q. No. I just said the bank didn't verify.

16 A. Oh. They won't verify.

17 Q. They couldn't --

18 A. I'm sorry.

19 Q. They couldn't get a verification from the
20 bank.

21 A. That's a judgmental call to the manager at
22 that point.

23 Q. Isn't it true that all the NSF checks that you
24 reviewed with the collectors in this process with Ms. Hue

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1 through -- you just mentioned yourself you were trying to
2 get a level of comfort.

3 A. Mm-hmm.

4 Q. Was there any judgment involved in whether you
5 resubmitted the checks or not?

6 A. At times there was.

7 Q. How did judgment come into it?

8 A. For an example, if you had a debtor that
9 actually made a deposit that day and the funds were going
10 to be available that night, that was a judgment call.

11 That was something that you, as a management group, would
12 sit down and talk about. Do you think we should go ahead
13 and put this on or do you think we should wait? And at
14 that point it's the manager's discretion whether to go
15 ahead and properly put that. But it was proper
16 documentation and you had to have it signed off by a
17 manager.

18 Q. Any other examples of when you used judgment?

19 A. Possibly the bank won't verify and the debtor
20 is saying that he did make a deposit and/or there is some
21 affiliation that the check would clear at -- what we had
22 was EOM2. So now we don't have that. But EOM2 was if it
23 was cleared up or made up within that five-day period of
24 time. I know it's confusing to you, but... B-340

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1 and Mr. Shaw -- all those checks -- had there been an
2 attempt to verify with the bank whether the funds were
3 available?

4 MS. FITE: Object to form. Answer if
5 you understand.

6 A. In some cases. In some cases. I don't -- in
7 my group I only did mine. So if there was anything else
8 in another group, I wouldn't primarily have that
9 authority.

10 Q. Wasn't there somebody else in the Dover office
11 that tried to contact the banks to verify funds?

12 MS. FITE: Object to form.

13 A. It could have been at that point an admin, but
14 that would be the only person that I know that would
15 actually have called the bank.

16 Q. Do you know --

17 A. Other than the collector.

18 Q. Would that have been at that time

19 Ms. Nickerson?

20 A. Yes. She was our admin at that time.

21 Q. Before that it would have been Jenie Birdsong?

22 A. Yes.

23 Q. Do you know whether they had any role in
24 trying to verify funds with the bank?

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<p>1 A. I -- the only rule that I know of is a 2 deposit. They would do post dates at the end of the 3 month to make sure that they were going to clear. Now, I 4 do know that that was a policy that the admins were 5 responsible for. But as far as clearing an NSF check, it 6 was primarily up to the collector to do that. But at 7 times we did ask the admins to call the banks.</p> <p>8 Q. Mm-hmm.</p> <p>9 A. And I don't recall if that's one of those 10 times or not, to be honest.</p> <p>11 Q. What do you mean at times? You mean for the 12 whole month or just for specific checks or --</p> <p>13 A. No. Just the end of the month run.</p> <p>14 Q. For the whole run?</p> <p>15 A. It might not be for the whole run. It might 16 be a couple of checks here or there.</p> <p>17 Q. Okay.</p> <p>18 A. It depends on if -- it depends on how busy we 19 were at that point in time.</p> <p>20 Q. Okay. What did you work from when you brought 21 in the collectors? Did you have some documents you had 22 in hand that you knew were the NSF checks?</p> <p>23 A. Yes. We would -- there was a spreadsheet that 24 we had actually. I believe that admins put together that</p>	Page 50	<p>1 then that was a judgment call to the manager. Or you 2 could call the bank and find out if the funds were 3 available. But your policy -- the policy is to call 4 both. You might not get a hold of the bank, and they 5 might not verify.</p> <p>6 Q. What you said before was that the policy was 7 the collector was to call the debtor for verification 8 even if the bank had already verified.</p> <p>9 A. Yes.</p> <p>10 MS. FITE: Jerry, do you mind if we take 11 a break?</p> <p>12 MR. HOMER: That's fine.</p> <p>13 (A brief recess was taken.)</p> <p>14 - - - - -</p> <p>15 KIM MARLOW, resumes</p> <p>16 BY MR. HOMER:</p> <p>17 Q. Referring back to Exhibit 2, which is your 18 statement to Fox, the last paragraph says, quote, last 19 month before Valerie left for vacation, she gave the 20 directive to Eric Shaw (mid balance manager) and handed 21 him all the cash journals of the collectors that she 22 found multiple NSFs -- and there's a -- I'm not sure if 23 that word is "or not" -- but it goes on and says and told 24 to get them all on, quote/end quote.</p>	Page 52
<p>1 spreadsheet. Or we might have as managers. I don't 2 remember at that point in time. And it would list all 3 the NSFs.</p> <p>4 Q. You don't know whether the admin had already 5 contacted the bank and couldn't get verification for the 6 list of those checks?</p> <p>7 A. I have no idea.</p> <p>8 Q. Okay. You don't know whether they did or not?</p> <p>9 A. I don't know.</p> <p>10 Q. So you don't really know what the process was. 11 Is that what you're telling me?</p> <p>12 MS. FITE: Object to form.</p> <p>13 A. No. I don't know if she helped in that 14 process or not at that point in time.</p> <p>15 Q. Well, I just want to get this clarified, 16 because before you told me that you had to do both bank 17 verification and debtor verification, but now you're 18 telling me you don't know whether the checks that you got 19 a list of had already been run through the bank 20 verification process and not passed.</p> <p>21 MS. FITE: Object to form. She said 22 and/or.</p> <p>23 A. Yeah. I don't believe I said that. I said 24 that you could either have the debtor verify funds. And</p>	Page 51	<p>1 Do you recall making that statement?</p> <p>2 A. Yes.</p> <p>3 Q. Could you tell me, where did you learn that 4 this directive had been given to Mr. Shaw to get them all 5 on?</p> <p>6 A. That's what he told me.</p> <p>7 Q. Okay. You don't have independent knowledge of 8 it? You weren't present when he was told to?</p> <p>9 A. No.</p> <p>10 Q. Okay. It goes on to say in the letter right 11 after that, "I know this because we were in our morning 12 managers meeting..." What does that mean? Why would you 13 know that because you were in the morning managers 14 meeting?</p> <p>15 A. Managers meetings we held every morning, and 16 she would give us things to do as per the day goes on. 17 And as she was leaving, she would give me things to do 18 that day, and he would have things to do that day.</p> <p>19 Q. Okay. All right. Referring again to your 20 statement, Exhibit 2, in the second paragraph, it says, 21 "On a monthly basis, we were given the directive to run 22 checks that we knew were not going to clear the bank." 23 Who does "we" refer to there?</p> <p>24 A. Our management staff.</p> <p style="text-align: right;">B - 341</p>	Page 53

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<p>1 Q. Would that be collectors? Would that be just 2 you and Mr. Shaw? Who was the management staff? 3 A. That would be me, Val Hue and Eric Shaw. 4 Q. Okay. So it says on a monthly basis you were 5 given the directive. Who gave you the directive to run 6 checks that you knew weren't going to clear the bank? 7 A. Our directive was from Val. 8 Q. She told you to run checks that she knew and 9 you knew weren't going to clear the bank? 10 A. At times. 11 Q. Okay. When did she do that? 12 A. It could have been any time at the end of the 13 month. 14 Q. Okay. She did it several times? 15 A. Several months? 16 Q. Yes. 17 A. It could have been, yes. 18 Q. Well, you say "could have been." You wrote 19 the statement. It says on a monthly basis we were given 20 the direction to do this. Did you mean by that statement 21 that at the end of every month she told you to run checks 22 that you knew weren't going to clear? What does that 23 statement mean? 24 A. The statement means that each month that we</p>	<p>Page 54</p> <p>1 in the collectors and going through one by one and trying 2 to get a comfort level. 3 My question is: The statement that you 4 were given a directive to run checks that you knew 5 weren't going to be put on, is that qualified by the fact 6 that you would try to find out with the collectors 7 whether they would clear or not? 8 MS. FITE: Same objection. 9 BY MR. HOMER: 10 Q. Or are those just two totally different 11 concepts? 12 MS. FITE: Same objection. 13 A. As far as the checks that weren't going to 14 clear the bank, would we discuss them with another -- 15 Q. Would you discuss it with -- 16 A. Would we discuss that with a collector? 17 Q. Right. 18 Would you discuss those with the 19 collectors to try to get a comfort level? 20 A. At times. 21 Q. Now, why would you have that discussion if you 22 knew they weren't going to clear the bank? 23 A. Because they could have talked to the debtor 24 after that point. They might not clear at this point,</p>
<p>1 would have an overview of what was going on that month. 2 It might not happen exactly every month, but there were 3 times that it did happen. But our preface for our 4 meeting is -- was to get everything on at that point in 5 time. 6 Q. Well, the next sentence says, quote, we were 7 directed to pull the cash journals and put the checks 8 back on that were from the previous months. Then we 9 pulled each collector in one by one and discussed the 10 checks that would be run and the level of comfort of them 11 clearing. Right? 12 A. Correct. 13 Q. So when you say it in the first sentence that 14 you were given the directive to run checks that weren't 15 going to clear the bank, is that qualified by the later 16 discussion there that says that you would get a level of 17 comfort by talking to the collector about it? 18 MS. FITE: Object to form. Answer if 19 you understand. 20 A. Can you repeat that question for me? 21 BY MR. HOMER: 22 Q. You say in the first sentence that we're given 23 a directive to run checks that we knew weren't going to 24 clear, but right after that you're talking about calling</p>	<p>Page 55</p> <p>1 which is EOM1, but it might have cleared on EOM2. 2 Q. Okay. You would have that second discussion 3 at EOM2 about whether the check would clear? 4 A. It was actually before EOM2. 5 Q. Okay. Well, let's get back to the first 6 sentence. In the first sentence, you say, on a monthly 7 basis we were given the directive, you say, by Valerie 8 Hue to run checks that we knew were not going to clear 9 the bank. You're personally aware of Valerie Hue telling 10 you to run checks that she knew weren't going to clear 11 the bank? 12 A. She didn't personally tell me to put checks on 13 that were not going to clear the bank, but I know of 14 instances where I've been told by the collectors that she 15 told them. 16 Q. Okay. So it's hearsay. She never actually 17 told you to do that. 18 A. No. She never actually told me to do that. 19 Q. Okay. Who told you that she told them to do 20 that? 21 A. Dave McQuisten was one of those people. 22 Q. But Dave McQuisten wouldn't be the one that 23 runs the checks, would he? 24 A. Yes.</p>

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<p>1 Q. What was the process for resubmitting the NSF 2 check?</p> <p>3 A. The process would be -- running an NSF, you 4 would contact the debtor, as I stated before, the bank, 5 or -- and/or get the notification from the manager, have 6 the manager notate on the account whether this can be run 7 or not run. And then it's sent to corporate to run -- to 8 our accounting division to run.</p> <p>9 Q. Okay. In your Exhibit 2, your statement, when 10 you say "...we were given the directive to run checks 11 that we knew were not going to clear the bank," the basis 12 for that information was something that the collectors 13 told you, not something that Valerie Hue told you. 14 Correct?</p> <p>15 MS. FITE: Object to form.</p> <p>16 A. Can you repeat that again?</p> <p>17 MR. HOMER: Could you read that back?</p> <p>18 THE WITNESS: Sorry.</p> <p>19 (The reporter read the requested 20 portion.)</p> <p>21 THE WITNESS: That's a yes and no 22 question. And the reason why I'm saying that is, yes, I 23 did hear that from the collectors, but I've also heard 24 her say that. She didn't directly say that to me. She</p>	<p>Page 58</p> <p>1 going to hit threshold and make any money that month. So 2 they hold their debtors for another month so that they 3 can put them on at the beginning of the month to hit 4 their quota for the following month.</p> <p>5 Q. So just let me see if I can characterize. You 6 can tell me if I got it right or not.</p> <p>7 A. Okay.</p> <p>8 Q. You're towards the end of the month. The 9 collector realizes he's not going to get enough money 10 that month to get a bonus. So he doesn't want to submit 11 a check that might be good because he won't get any bonus 12 from it. He would rather wait until the next month when 13 he has a chance to get a bonus. So he holds back the 14 check until the following month. Is that a correct 15 statement of it?</p> <p>16 A. That is correct.</p> <p>17 Q. Okay. Referring now to the third paragraph of 18 Exhibit 2, I'd like to read from that again: I know for 19 a fact that collectors have asked for some checks to be 20 pulled at the end of the month because they knew they 21 would not clear. She, Val, stated that she had a 22 directive from Kathy Obenshain that we are not pulling 23 any checks off the system and to make this happen. 24 Collectors have complained several times about having to</p>
<p>1 might have said that to -- I'm sure she said it to Eric. 2 It was...</p> <p>3 BY MR. HOMER:</p> <p>4 Q. You say you're sure she said it to Eric.</p> <p>5 Were you present when she said it to 6 Eric?</p> <p>7 A. No, I was not present.</p> <p>8 Q. Okay. Were you ever present when she gave a 9 directive to run a check that she knew wasn't going to 10 clear the bank?</p> <p>11 A. At that time if we were running checks, I 12 wouldn't know which ones she approved and which ones she 13 didn't approve. So I wouldn't know which check -- she 14 wouldn't have -- she would have known that weren't going 15 to clear and what would clear.</p> <p>16 Q. So the answer to that question would be --</p> <p>17 A. No.</p> <p>18 Q. -- no?</p> <p>19 A. Is no.</p> <p>20 Q. Okay. Are you familiar with the term 21 "sandbagging"?</p> <p>22 A. Yes, I am.</p> <p>23 Q. What does that term refer to?</p> <p>24 A. That's when a collector knows that they're not</p>	<p>Page 59</p> <p>1 put on bad checks at the end of the month that they knew 2 would not clear and would put them at a negative at the 3 beginning of the following month.</p> <p>4 You say in the first sentence: I know 5 for a fact that collectors have asked for some checks to 6 be pulled at the end of the month because they knew they 7 would not clear. What's the factual basis of that 8 statement?</p> <p>9 A. Because I've had collectors at times come up 10 to me and say, "This is not going to clear. There's no 11 funds in the account to clear, and I don't want this to 12 run."</p> <p>13 Q. Is that what a collector would do if they were 14 going to sandbag? Let's assume that there were funds 15 available. Would a collector come to you and say that 16 they wouldn't clear so that they could get credit the 17 next month?</p> <p>18 MS. FITE: Object to form. Answer if 19 you can.</p> <p>20 A. Can you repeat that question for me?</p> <p>21 Q. Would a collector come to you towards the end 22 of the month and tell you that a check wasn't going to 23 clear so that he could get credit for it the next month?</p> <p>24 Isn't that what sandbagging is?</p> <p style="text-align: right;">B-343</p>

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<p>1 A. Yes, that is what sandbagging is.</p> <p>2 Q. Okay. When you say here that collectors came</p> <p>3 at the end of the month telling you that the checks</p> <p>4 wouldn't clear, my question is: Isn't it possible that</p> <p>5 they were sandbagging when they told you that?</p> <p>6 A. Could very well be.</p> <p>7 Q. Okay. Would you have knowledge of which</p> <p>8 checks were going to clear and which checks wouldn't</p> <p>9 clear for a given collector regarding this statement that</p> <p>10 you have in this paragraph 3 of your statement,</p> <p>11 Exhibit 2?</p> <p>12 A. If I looked up the account and saw that it was</p> <p>13 documented on the account, then I would -- yes. I would</p> <p>14 think that they had called the debtor or -- it's a tape-</p> <p>15 recorded line. So I would think that they would not put</p> <p>16 something on there that wasn't -- you know, wasn't</p> <p>17 correct.</p> <p>18 Q. Okay. But you're telling me now there is a</p> <p>19 way to look into that. But when you made this statement</p> <p>20 that's in Exhibit 2 about knowing that collectors have</p> <p>21 asked for checks to be pulled at the end of the month</p> <p>22 because they knew they would not clear, had you gone and</p> <p>23 verified that the checks would have cleared, or are you</p> <p>24 just taking the collector's word for that?</p>	<p>Page 62</p> <p>1 did you go check the documentation to see if it should</p> <p>2 have been run?</p> <p>3 A. I've never had a collector personally come to</p> <p>4 me and ask me to pull something off, because I wasn't</p> <p>5 their manager. They would only go to their manager to do</p> <p>6 that. And if that manager wasn't available, they would</p> <p>7 go to the next person in command, and that was not me at</p> <p>8 the time.</p> <p>9 Q. Okay. But do you have any basis for</p> <p>10 concluding that when collectors told you that a check</p> <p>11 wasn't going to clear that it wasn't sandbagging? In</p> <p>12 other words, you've made this statement that they came to</p> <p>13 you and told you that the check wasn't going to clear.</p> <p>14 But did you have any basis for knowing that that actually</p> <p>15 was true?</p> <p>16 MS. FITE: Object to form. She just</p> <p>17 said she had no capability of pulling the check. So they</p> <p>18 couldn't sandbag through Kim.</p> <p>19 A. They wouldn't -- if they were to come to me, I</p> <p>20 couldn't -- I wouldn't pull the check without the other</p> <p>21 manager's approval or the other manager looking into it.</p> <p>22 Unless it was something that was definitely -- something</p> <p>23 that we had to pull because there was a closed account or</p> <p>24 such thing like that.</p>
<p>1 MS. FITE: Object to form.</p> <p>2 A. Can you repeat the first part of that question</p> <p>3 for me?</p> <p>4 Q. Well --</p> <p>5 A. Because it's kind of --</p> <p>6 Q. -- what I'm trying to get at is: You've said</p> <p>7 there wasn't means for determining whether the check</p> <p>8 would clear or not. You could go look at the account.</p> <p>9 You could go see if the debtor had been called,</p> <p>10 blah-blah-blah.</p> <p>11 But what I'm asking for is: When you</p> <p>12 made this statement that collectors would come to you and</p> <p>13 tell you that a check would clear or wouldn't clear, did</p> <p>14 you actually verify what he was telling you or did you</p> <p>15 just take his word for it? How do you know he wasn't</p> <p>16 sandbagging, to make it simple?</p> <p>17 A. You didn't know that he wasn't sandbagging</p> <p>18 unless he was not at threshold -- if he wasn't at</p> <p>19 threshold. But as a manager, that's your job and duty --</p> <p>20 to go behind the collector and make sure that that is</p> <p>21 what they're supposed to do.</p> <p>22 Q. Okay. Did you ever do that? When a collector</p> <p>23 came to you and said we should pull this check because</p> <p>24 their funds aren't available but Valerie wants to run it,</p>	<p>Page 63</p> <p>1 Q. So the answer would be no to the question?</p> <p>2 A. No.</p> <p>3 Q. Is the answer no?</p> <p>4 A. The answer is no.</p> <p>5 Q. Okay. Did you ever overhear conversations</p> <p>6 between Kathy Obenshain and Valerie Hue regarding running</p> <p>7 of the checks?</p> <p>8 A. Yes.</p> <p>9 Q. What do you recall about anything that Kathy</p> <p>10 Obenshain said about running checks?</p> <p>11 MS. FITE: Object to form. You can</p> <p>12 answer.</p> <p>13 A. Particularly about this end of the month? Is</p> <p>14 that what you're asking me? Or about anything?</p> <p>15 Q. Anything at all.</p> <p>16 Do you recall any conversations where</p> <p>17 Kathy Obenshain discussed with Valerie Hue the running of</p> <p>18 the checks?</p> <p>19 A. Yes.</p> <p>20 Q. What do you recall about that?</p> <p>21 A. <u>Kathy would tell her to get them all on.</u></p> <p>22 Q. Okay.</p> <p>23 A. <u>That was her famous words.</u></p> <p>24 Q. What did she mean by that?</p>

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<p>1 A. To get them all on. Make sure they're 2 verified. Make sure that we call the debtors, the banks, 3 or do any -- all the verification that's necessary and to 4 make a decision to get them on.</p> <p>5 Q. Okay. So to get them all on didn't 6 necessarily mean not to follow the policy. It meant just 7 follow the process for getting verification.</p> <p>8 A. Correct.</p> <p>9 Q. That's the way you took it --</p> <p>10 A. Correct.</p> <p>11 Q. -- when she said that.</p> <p>12 A. Correct.</p> <p>13 Q. Okay. Do you recall any other conversations 14 that you overheard between Kathy Obenshain and Valerie 15 Hue about processing checks?</p> <p>16 A. There was several conversations. Are you 17 asking me a specific conversation or --</p> <p>18 Q. I'm looking for anything that had to do with 19 running the NSF checks.</p> <p>20 A. Every month they had a conversation --</p> <p>21 Q. Okay.</p> <p>22 A. -- about NSF checks.</p> <p>23 Q. Okay. Why is it that in your letter to Ted 24 Fox, your memorandum -- I guess it is a letter -- or</p>	Page 66	Page 68
<p>1 memorandum to Ted Fox, Exhibit 2 -- why is it that you're 2 telling Mr. Fox that Valerie gave the directive to Eric 3 Shaw to get them all on? Why is that significant?</p> <p>4 A. He asked me who was doing the check handling 5 policy at that time when Valerie was out, and that was my 6 statement to him.</p> <p>7 Q. Did he understand what you meant by that, do 8 you know?</p> <p>9 A. I have no idea. He didn't ask me otherwise.</p> <p>10 Q. Did you think it was significant in terms of 11 following the policy that Valerie Hue told Eric Shaw to 12 get them all on?</p> <p>13 A. I just knew that's what was said.</p> <p>14 Q. What was your understanding of the 15 significance of that?</p> <p>16 A. Make sure we got everything on that we could 17 possibly get on.</p> <p>18 Q. Why was that important to put in the letter to 19 Mr. Fox?</p> <p>20 A. Because that's what our policy and procedures 21 were.</p> <p>22 Q. Is it possible that he might have misconstrued 23 that to think that what you meant was to put all the 24 checks back through redipping, in other words, submit</p>	Page 67	Page 69

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KIM MARLOW

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1 Q. Okay. At the end of November 2003, were you
 2 entrusted with running the end-of-month NSF checks with
 3 the collectors?

4 A. I can't recall, to be honest with you. I
 5 don't know.

6 Q. Let me see if I can refresh your recollection.

7 Do you recall Valerie Hue being absent
 8 from the office in November because of an illness?

9 A. She possibly could have been. I really don't
 10 recall.

11 Q. Okay. So you don't have any recollection that
 12 you ran NSF checks at the end of the month with the
 13 collectors?

14 A. No. I really don't.

15 Q. Would you know who did do that in November of
 16 2003?

17 MS. FITE: Object to form.

18 A. I have no clue.

19 Q. Okay. Can you describe what forms, if any,
 20 were used in this process where collectors would attempt
 21 to verify checks either with a bank or with the debtors?
 22 I'm talking about NSF checks.

23 A. Yes. We had a redipping form that
 24 Ms. Birdsong, our administrative assistant at the time,

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1 A. She would review the form and then -- it
 2 should have gone to the admin. And then the admin
 3 e-mailed to accounting whether it could be on or off at
 4 that time.

5 Q. So the admin, that would be Ms. Nickerson,
 6 December of 2003. Correct?

7 A. Yes.

8 Q. And Jenie Birdsong before that time at some
 9 point in time?

10 A. Yes.

11 Q. They would take the redip form that had been
 12 signed off by the manager, and based on that they would
 13 send an e-mail requesting the check to be resubmitted.
 14 Does that state the process correctly?

15 A. Yes.

16 Q. Okay. Do you know what became of the redip
 17 forms?

18 A. No.

19 Q. Who maintained them?

20 A. At that time it would have been Leigh Ann
 21 Nickerson.

22 Q. Okay. You're talking about December of 2003?

23 A. Yes.

24 Q. Before that it would have been Jenie Birdsong?

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1 made up for her personal use.

2 Q. What was that form called? Do you remember
 3 the title of it?

4 A. Redipping form.

5 Q. It said "Redipping Form" on it?

6 A. Yes.

7 Q. Okay. What information was on it?

8 A. The debtor number, who they spoke to, if they
 9 called the bank, what the bank said, amount deposited.
 10 It would have debtor information on it, and it would have
 11 a place for a signature for a manager.

12 Q. Would it have information about contacts with
 13 a debtor?

14 A. Yes.

15 Q. Would it supply information about whether the
 16 debtor had been contacted or not?

17 A. Yes.

18 Q. Okay. That was information that the collector
 19 would fill out or put into the form whether or not the
 20 debtor had been contacted?

21 A. Yes. It was definitely a collector's form.

22 Q. Okay. Then the manager, that would be Valerie
 23 Hue in 2003 or a good part of 2003. She would be
 24 reviewing that form and signing it. Is that right?

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1 A. Yes.

2 Q. Do you know where they kept them?

3 A. It could have been all over the office. But
 4 there was a closet in the back of our office that -- I'm
 5 pretty sure that's where they were kept at that time.

6 Q. Do you recall when the last time you saw those
 7 forms was?

8 A. I don't know after each month that I ever saw
 9 them after that.

10 Q. You see them in the closet?

11 A. No.

12 Q. You just know that they put them there?

13 A. Yeah.

14 Q. Okay. Other than the redip form, what forms
 15 were used in this check verification process, if any?

16 A. None that I know of.

17 Q. Wasn't there a form?

18 You talked about a spreadsheet that was
 19 put together by the admin assistant.

20 A. Yes.

21 Q. What was that called, if you remember?

22 A. It wasn't called anything. It was just a form
 23 that they actually pulled from a report of NSF. They
 24 did a collector report of NSF and just put it on a

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Page 74

1 spread -- an Excel spreadsheet and then just gave it to
 2 us.

3 Q. That would list all the NSF checks for the
 4 month?

5 A. By collector.

6 Q. By collector.

7 Okay. Who put that together? The
 8 admin?

9 A. Yes.

10 Q. That would be Leigh Ann Nickerson the latter
 11 part of 2003, and then Jenie Birdsong before that?

12 A. Yes.

13 Q. Okay. Do you know whether Kathy Obenshain was
 14 familiar with the process used by the Dover office which
 15 you've described and Eric Shaw described in his memo
 16 where you'd sit down with the collectors and go through
 17 the checks one by one, the NSF checks?

18 A. Yes. She knew that policy.

19 Q. She knew that's how the process worked?

20 A. Yes.

21 Q. Okay. Over what period of time did she know
 22 that from the time she -- for a period of years?

23 MS. FITE: Object to form. Answer if
 24 you know.

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1 didn't appreciate what he was doing. And I was there as
 2 a witness. And that was pretty much all I know. I guess
 3 they talked about it afterwards, and it was taken care
 4 of.

5 Q. Okay. Is that all you know about any sexual
 6 harassment that Mr. Scher was involved in --

7 MS. FITE: Object to form.

8 BY MR. HOMER:

9 Q. -- in terms of what he actually perpetrated?

10 A. That's the only thing I know.

11 Q. Okay. How about racial comments? Have you
 12 ever heard Mr. Scher make any racial comments?

13 A. No.

14 MR. HOMER: Can we have this marked as
 15 Exhibit 4, please?

16 (Marlow Deposition Exhibit No. 4 was
 17 marked for identification.)

18 BY MR. HOMER:

19 Q. Ms. Marlow, can you identify Exhibit 4? Can
 20 you identify that document, Exhibit 4?

21 A. Mm-hmm.

22 Q. What is this?

23 Well, let me ask a different question.

24 This memo talks about moving fees. Can you tell me in

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1 A. I have no idea how long she knew that was
 2 going on.

3 Q. But she knew in December of 2003 what the
 4 process was?

5 A. Yes.

6 Q. Okay. She would have been aware that there
 7 were forms, the redip form, for example, that were used
 8 in the process?

9 MS. FITE: Object to form.

10 A. I don't know if she would have known about a
 11 redip form or not. That was something that our admin had
 12 created just for our benefit.

13 Q. Okay.

14 A. So I don't know if she knew.

15 Q. Just to switch gears a little bit here, have
 16 you ever had any discussion with Valerie Hue regarding
 17 Mike Scher and sexual harassment that he was involved in
 18 of Jenie Birdsong?

19 A. Yes.

20 Q. What was that discussion, if you recall?

21 A. I know she came to Val and told Val about -- I
 22 don't even remember what he did. I don't -- talk, I
 23 guess. And she was very uncomfortable with it. And she
 24 came to Val as a friend and told Val, you know, she

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1 the context of this memo what that means -- to move a
 2 fee?

3 A. It means taking fee from an account that sits
 4 in a collector's -- a manager's unit and moving it to a
 5 collector or the person that had the account last.

6 Q. Can you be a little more specific?

7 Well, first of all, is there something
 8 wrong with doing that?

9 A. Yeah, there is something wrong with doing
 10 that. And at that point I wasn't aware of that at the
 11 time. That's why we had a discussion about it. And
 12 that's the only real bad discussion I had with Kathy
 13 Obenshain at the time.

14 Q. Did you have the discussion with Kathy or with
 15 Valerie Hue?

16 A. I think Valerie actually got the call, and
 17 then I was called --

18 Q. Okay.

19 A. -- at that time.

20 Q. Do you understand what the purpose of the memo
 21 is?

22 A. Not really, but...

23 Q. Was it to advise you not to move fee?

24 A. Oh, yes.

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1	violation of NCO's check handling policy?	1	notes -- I think they're called fact sheets -- when you
2	MR. HOMER: Objection --	2	print them out -- and these fact sheets, if my
3	MS. FITE: You can answer.	3	understanding is correct, have footprints of everything
4	MR. HOMER: -- to form.	4	that the debtor or the manager has done on the account.
5	A. Yes.	5	From these fact sheets, could someone tell whether a
6	Q. Do you have any knowledge, whether it's from	6	collector or manager had redipped an account without
7	viewing account notes or speaking with collectors in the	7	proper authorization or verification?
8	office or from sitting in the morning meetings, that	8	A. Yes. If there was no documentation on it and
9	Ms. Hue was putting on checks where there was no debtor	9	it was done, it had to be done by the manager. So that
10	authorization or verification that the funds were there?	10	would be one way to look at it. Unless there was
11	MR. HOMER: Objection to form.	11	notations on there from the manager themselves.
12	A. Yes.	12	Q. So if there's no notation that they got debtor
13	Q. What is that knowledge? How do you know that	13	authorization or they attempted verification with the
14	Ms. Hue was violating the check handling policy?	14	bank, then it wasn't done?
15	A. Because we were putting on checks that didn't	15	A. You assume that it was not done. That's
16	have proper authorization.	16	correct.
17	Q. I understand.	17	MS. FITE: Okay. No further questions.
18	But what I'm asking for is: How do you	18	BY MR. HOMER:
19	know that? Because during your deposition, I heard you	19	Q. You indicated that various collectors told you
20	say that you were in small balance. Therefore, you	20	that the policies were being violated. Correct?
21	wouldn't be dealing with the large balance checks that	21	A. Correct.
22	were being redipped. So how do you know that things were	22	Q. Did you feel any obligation to tell NCO
23	going on end of month without any debtor authorization or	23	management about that?
24	bank verification. If there's multiple reasons, then	24	A. Obligation? I should have but I didn't.
	Page 83		Page 85
1	tell me all of them.	1	Q. Why didn't you?
2	MR. HOMER: Objection to the form of the	2	A. Because Valerie was my manager.
3	question again.	3	Q. You were also a manager at NCO at the time.
4	BY MS. FITE:	4	Correct?
5	Q. Go ahead.	5	A. Correct.
6	A. Through hearsay. Through other collectors.	6	MR. HOMER: Okay. I don't have any
7	Q. Were there any other collectors besides Dave	7	other questions.
8	McQuisten? I know you mentioned him. Any other	8	MS. FITE: We're done.
9	collectors that told you that things were going on that	9	We will read.
10	shouldn't have gone on?	10	(The deposition concluded at 11:15 p.m.
11	A. Yes. Brad Reavis.	11	this same day.)
12	Q. Anyone else?	12	
13	A. Mark Lefevre. Mostly the LBs.	13	-----
14	Q. Any other way you knew other than speaking	14	
15	with collectors? Like did you ever see account notes	15	(I HAVE READ THE FOREGOING DEPOSITION,
16	where you saw that a check had gone on without debtor	16	AND IT IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE.)
17	authorization or bank verification?	17	
18	A. Not until the review of the notes that we	18	
19	reviewed.	19	
20	Q. So not until the preparation?	20	
21	A. Yeah. Not until the preparation. I would	21	WITNESS NAME
22	have never looked back at an account for any reason. I	22	
23	wouldn't have any reason too.	23	-----
24	Q. Could somebody tell by reviewing the account	24	B-348

Page 1

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

VALERIE HUE,)
)
Plaintiff,)
)
v.)
) Civil Action No.
NCO FINANCIAL SYSTEMS, INC.,) 05-225-KAJ
a Delaware corporation,)
trading as NCO FINANCIAL)
COMMERCIAL SERVICES,)
)
Defendant.)

Telephone Deposition of DAVID MC QUISTEN taken
pursuant to notice at the law offices of Parkowski,
Guerke & Swayze, P.A., 116 West Water Street, Dover,
Delaware, beginning at 2:00 p.m. on Thursday, March 23,
2006, before Robert Wayne Wilcox, Jr., Registered
Professional Reporter and Notary Public.

APPEARANCES:

JEREMY W. HOMER, ESQ.
PARKOWSKI, GUERKE & SWAYZE, P.A.
116 West Water Street
Dover, Delaware 19903
for the Plaintiff,

ELIZABETH K. FITE, ESQ. (via teleconference)
SESSIONS, FISHMAN & NATHAN, L.L.P.
15316 North Florida Ave - Suite 100
Tampa, Florida 33613
for the Defendant.

ALSO PRESENT: LENNY CICCARONE, NCO

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1 BY MR. HOMER:

2 Q. Well, let me back up a minute.

3 You said that the check handling policy
4 for resubmission of NSF checks required verification
5 before the check was resubmitted. Do I have that right?

6 A. Yes.

7 Q. My next question is: What was the requirement
8 for verification? What did you have to do to satisfy the
9 verification requirement?10 A. I confirm from the check writer that it's
11 good. I confirm from the bank that the funds are
12 available.13 Q. Okay. Do you have to do both in order to
14 satisfy the verification requirement or do you have to do
15 one of those?16 A. Either or.17 Q. Okay. Is it satisfactory to just call the
18 debtor and get him to say the check is good, or do you
19 have to first try with the bank before you contact the
20 debtor?21 A. Well, I contact the debtor first.22 Q. Okay. The verification practice, has this
23 also been in effect since you can remember going back to
24 2001?

Page 11

Page 13

1 A. Yeah. I believe so.

2 Q. Okay. Was it in effect in the Dover office in
3 the year 2003 when you were there?

4 A. Correct.

5 Q. Okay. How did you learn about this policy
6 that requires verification before you resubmit an NSF
7 check for payment?

8 A. Morning stand-up meetings.

9 Q. Okay. Could you elaborate a little bit on
10 that?

11 A. In the morning we would have a meeting.

12 Q. Who is "we"?

13 A. The collectors. The collections department.

14 Q. Okay. It was at one of those meetings that
15 you learned about the verification policy?

16 A. Correct.

17 Q. Okay. When you contacted the debtor for
18 purposes of verification, was there anything specifically
19 he was supposed to tell you in terms of satisfying the
20 verification requirement?21 A. Why the call was necessary in the first place,
22 why the funds were not there and are they there now.23 Q. Okay. If he told you they were there now,
24 then you would have satisfied the verification

1 requirement?

2 A. Correct.

3 Q. Do you recall whether there were any forms
4 utilized in the Dover office when you were there that
5 related to this contact that you had with the debtor to
6 verify the funds?

7 A. Yes. There were.

8 Q. Can you tell me what they were?

9 A. It was a form requesting a resubmission of the
10 nonsufficient fund check.11 Q. Okay. What kind of information was on the
12 form?13 A. Did I verify the funds were available and who
14 I verified it with, the bank phone number. And it was
15 submitted to management.16 Q. Okay. Management would be the -- who would it
17 be?18 A. That could be either one of the two managers
19 in the collections department. One of the collection
20 managers.21 Q. Okay. In the Dover, Delaware office, who was
22 that?

23 A. Well, there's several different managers.

24 You want them all?

5 (Pages 14 to 17)

Page 14

1 before the check could be redipped or resubmitted.

2 My question is: Did they have to have
3 the form filled out before they would approve the
4 resubmittal of the check for payment?5 MS. FITE: Again, I object to form. But
6 go ahead and answer if you can, Dave.

7 A. I have to say no.

8 Q. Okay. Can you explain your answer?

9 A. The form was a standard policy or a standard
10 procedure. But it didn't mean the form was always filled
11 out.

12 Q. Okay. Can you explain what you mean by that?

13 A. A \$75 check on a company that has been paying
14 checks for months has one check bounce. Confirmation on
15 the phone. I have seen checks go through without having
16 the forms filled out.

17 Q. Okay. That's just one example, I suppose.

18 Is that right?

19 A. Yeah.

20 Q. Okay. When you tried to contact the debtor
21 for purpose of ascertaining whether funds were available
22 to cover an NSF check, were you always able to contact
23 the debtor?

24 A. No.

Page 16

1 believe was her title, for NCO collections.

2 Q. Did she ever give you any direction about the
3 check handling policies of NCO?

4 A. Myself personally?

5 Q. Yes.

6 A. No.

7 Q. Okay. Did she ever meet with you to discuss
8 how you were doing your job?9 A. I know we've had informal conversations --
10 "Hi, how you doing?"11 Q. Okay. Do you ever recall any substantive
12 discussion with her about the procedures you were using?13 A. No, I have not. That would not be something I
14 would be involved in.15 Q. Okay. I think you testified that the forms
16 might not be used for debtor verification if there's a
17 history of the debtor making the check good. I'm talking
18 about an NSF check.

19 Did I get that right?

20 A. That I wouldn't necessarily always use the
21 form? Is that what you're saying?

22 Q. Yes.

23 In other words, you might resubmit an
24 NSF check for a payment and might ask the manager to

Page 15

1 Q. What would you do if you couldn't?

2 A. Call the bank.

3 Q. Okay. What would happen if the bank wouldn't
4 verify for you that funds were available?

5 A. You take a look at their past history.

6 Q. Why would you do that?

7 A. Again, if they paid 25 payments in a row
8 without missing a payment, then it would be given to the
9 manager to use their discretion.

10 Q. Okay.

11 A. That was not my call.

12 Q. Okay. Did you ever meet at the end of the
13 month with the managers to go over NSF checks -- or
14 towards the end of the month?

15 A. To go over NSF checks, no.

16 Q. Okay. Did you ever receive any direction from
17 a Kathy Obenshain about this policy for resubmitting NSF
18 checks for payment?

19 A. Please rephrase that.

20 Q. Let me back up.

21 Do you know who Kathy Obenshain is?

22 A. I do.

23 Q. Who is she?

24 A. She was the vice president of operations, I

Page 17

1 resubmit the check without filling out the form because
2 the prior history of the debtor suggested that payment
3 would be good.

4 Did I get that right?

5 A. I need to clarify that.

6 Q. Okay.

7 A. The form is something that was established
8 because of an NSF problem. Was the form always used?
9 No. We didn't always have the form. While the form
10 policy was in place was it used? I had no control over
11 that. I take the form. I fill it out and I turn it in.
12 And then it was beyond my control.13 Q. Okay. But didn't you say that on occasion you
14 wouldn't fill out the form depending on the history of
15 the debtor? I think you talked about a \$75 check in
16 which you might not fill out the form when you asked for
17 the redeposit of a check.18 A. Right. I said that there was times that we
19 used the forms. Then there was times we didn't use the
20 forms. Then there was times we used the form. But as
21 I'm thinking here, to be totally honest, I -- if I
22 submitted a redip on a check, the form was used. When we
23 used the form, the form was submitted.

24 Q. Okay. Now, let's talk about the situation

Page 18

Page 20

1 again where there's a \$75 check and the debtor had a long
 2 history of having funds to cover the check. Were there
 3 times when you would request that the check be
 4 resubmitted for deposit -- I'm talking about an NSF
 5 check -- based on your knowledge of the debtor's history
 6 as opposed to just contacting the debtor?

7 A. Give me that question again. I'm sorry.

8 Q. Were there times when you would request the
 9 resubmission of an NSF check for payment based on your
 10 knowledge of the debtor's history as opposed to actually
 11 calling him and getting verification? I know there's
 12 some cases you can't reach the debtor, for example.

13 A. So did I resubmit a check without the approval
 14 of the debtor or the verification of the bank? Is that
 15 what you're saying?

16 Q. Yes.

17 A. I would resubmit a form. I would have no
 18 control over that happening. That wasn't my position.

19 Q. Okay. But would the form say you weren't able
 20 to contact the debtor or the bank but you want to
 21 resubmit it because the debtor has a good history? Would
 22 the form say something like that?

23 A. I can't exactly tell you what happened.

24 Ninety-nine percent of the time or more I got a hold of

1 A. Correct.

2 Q. Okay. You're aware that Valerie Hue was fired
 3 by NCO. Correct?

4 A. Correct.

5 Q. Before NCO fired Valerie Hue, were you
 6 contacted by either Kathy Obenshain or Ted Fox about
 7 NCO's check handling policies and your compliance with
 8 them?

9 A. Before she was fired was I contacted?

10 Indirectly.

11 Q. Okay. Can you explain that?

12 A. I was called into Mike Scher's office.

13 Q. Okay. What transpired then?

14 A. There was discussion about it. That's what's
 15 in that document we talked about earlier.

16 Q. Okay. Who was present when you had this
 17 discussion in Mike Scher's office?

18 A. Physically, it was myself and Mike Scher.

19 Q. Okay. You discussed the check handling
 20 policies at that time with Mike Scher?

21 A. Well, I didn't discuss the check handling
 22 policies. They asked me some questions regarding this --
 23 Mike and Ted Fox by phone.

24 Q. Okay. So Mike was there and Ted Fox was on

Page 19

Page 21

1 somebody. But did the form say something like that? I
 2 don't know that there was a place on the form to say
 3 that.

4 Q. Okay. Let's forget about the form for a
 5 moment. Let's say you've got a situation where the
 6 debtor had a really good history of making good these
 7 checks, these NSF checks, and you weren't able to get up
 8 with him. For whatever reason, you just can't reach him.
 9 Under that case would you possibly request the
 10 resubmission of the check based on the history of the
 11 debtor?

12 MS. FITE: I'm going to object to form
 13 based upon asked and answered. Go ahead and answer,
 14 Dave.

15 A. What you just said is what I said. I would
 16 advise that, if I couldn't confirm it, these are the
 17 scenarios. I left it up to management to make the
 18 decision.

19 Q. Okay. Was it your understanding that if you
 20 requested a check be resubmitted under those
 21 circumstances that the manager had the discretion to do
 22 that --

23 A. Right.

24 Q. -- to approve it?

1 the phone?

2 A. Correct.

3 Q. Do you recall about when this was?

4 Let's try to put it relative to the time
 5 that Valerie Hue got fired. Do you recall approximately
 6 when you had this conversation with Ted Fox?

7 A. Oh. What was that? Two years ago? I don't
 8 know. A day or two or week or so. Somewhere in that
 9 period, I can't recall.

10 Q. Okay. Your statement is directed to Kathy
 11 Obenshain. We'll get it out here in a minute. But it
 12 says, "Per your request, the following is a summary of
 13 the phone conversation this morning with Ted Fox."

14 How did Kathy Obenshain get involved in
 15 this with respect to your involvement? Why was it that
 16 you're writing to her as opposed to Ted Fox or Scher?

17 A. I believe that we were asked. Whether by
 18 e-mail or by Ted Fox requesting, I don't know. I can't
 19 remember that. But it was a request that was made of us,
 20 hence my wording.

21 Q. Okay. Do you recall talking to Kathy
 22 Obenshain about any of these matters related to Valerie
 23 Hue's termination?

24 A. No.

7 (Pages 22 to 25)

Page 22

1 Q. I'm sorry. I had a hard time hearing.
 2 Was that no?
 3 A. Yes. That's a no.
 4 Q. Okay. What do you recall about the phone
 5 conversation that you had with Ted Fox in the presence of
 6 Mike Scher?
 7 A. What I recall was that it was quick. I don't
 8 remember the bulk of the conversation.
 9 Q. Okay. During the course of the conversation
 10 you were asked questions, I guess. That's what you said
 11 before.
 12 A. Yes.
 13 Q. Did Mr. Fox tell you that he wanted you to
 14 make a written statement about what you had said?
 15 A. I can't remember if he told me that.
 16 Q. Okay. I would like to refer to the statement
 17 now. I'm going to have it marked as this end. I realize
 18 that you may not have it at your end. But just for the
 19 record, it's Bates stamped 00090. It's a letter to Kathy
 20 Obenshain. It's not signed. But it's the second page of
 21 a fax. The first page of the fax does say from Dave
 22 McQuisten to Kathy Obenshain. That's Bates stamped 0089.
 23 I'm going to have them both identified as one exhibit.
 24 It will be McQuisten Exhibit 1.

1 be returned. Hold check request or deletions have gone
 2 unsigned in some cases.
 3 "This has been a 'semi' practice for
 4 some time, and I only have started notating the accounts
 5 in my que the last few months."
 6 That's the entire letter.
 7 How long ago was it that you had seen
 8 that statement that I just read to you, Mr. McQuisten?
 9 A. Outside of the time I probably typed it, I
 10 haven't seen it.
 11 Q. Okay. I'm going to read to you again from the
 12 third paragraph of the letter. It says, quote, checks
 13 that have been returned NSF have been directed to be 'put
 14 back on', end quote. That's the end of the first
 15 sentence. Do you know what that phrase "put back on"
 16 means?
 17 A. Redeposited.
 18 Q. Okay. Could it also mean something else?
 19 Could it mean just run the checks through the system
 20 again and try to verify the checks?
 21 A. You're asking me if it could mean something
 22 else and what you said is just the same thing in
 23 different words.
 24 Q. Well, let me see if I can make the

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1 We'll take a moment to get the document
 2 marked.
 3 (McQuisten Deposition Exhibit No. 1 was
 4 marked for identification.)
 5 BY MR. HOMER:
 6 Q. You don't happen to have that document with
 7 you, do you, Mr. McQuisten?
 8 A. No.
 9 Q. Okay. Fortunately, it's not very long. So
 10 I'm just going to read you the entire second page of the
 11 document so it's in the record. This is a quote.
 12 "Kathy Obenshain,
 13 "Per your request, the following is a
 14 summary of the phone conversation this morning with Ted
 15 Fox.
 16 "In conversations with debtors
 17 requesting a check not be deposited, have resulted in the
 18 check not being pulled per manager direction.
 19 "Checks that have been returned NSF have
 20 been directed to be 'put back on.' Attempts to contact
 21 the debtor have and have not happened.
 22 "We, as a group, have at times been told
 23 'no checks are being pulled,' which led to no attempt to
 24 pull or change check dates, knowing they would possibly

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1 distinction. If a check is put back on in the sense that
 2 you just try to contact the bank and the debtor to do
 3 verification, that's one thing. But if you actually just
 4 take the check and try to resubmit it, isn't that
 5 different?
 6 MS. FITE: I'm going to object here that
 7 "put back on" means redeposited.
 8 MR. HOMER: Right. That's fine.
 9 BY MR. HOMER:
 10 Q. You can answer the question.
 11 Isn't there a distinction between just
 12 redepositing the check and trying to run the check
 13 through the verification process again?
 14 A. I'm unclear what you're saying.
 15 Q. Well, I'll tell you that in another deposition
 16 that the term "put back on" was -- it was explained to me
 17 that that meant you just run the checks through the
 18 system. You try to verify the checks with the bank. You
 19 try to contact the debtor to see if the check should be
 20 resubmitted.
 21 MS. FITE: I'm going to have a
 22 continuing objection because he's already testified that
 23 in this statement "put back on" means redeposited.
 24 MR. HOMER: Well, I'm just asking if

1 that term might have been used differently at different
2 times.

3 BY MR. HOMER:

4 Q. Mr. McQuisten, have you ever heard that phrase
5 "putting the checks back on" refer to just running the
6 checks through the verification process? Have you ever
7 heard the term used for that reason?

8 A. I've heard the term. How it was used? I
9 can't testify to what somebody else said how they
10 referred to it.

11 Q. Okay. Going to the next paragraph of the
12 letter, it says, "We, as a group, have at times been told
13 'no checks are being pulled'..." What does that phrase
14 "no checks are being pulled" mean?

15 A. The check is being deposited.

16 Q. Okay. It goes on to say "Hold check requests
17 or deletions have gone unsigned in some cases." What did
18 you mean by that?

19 A. I requested a hold check. Debtor Jones said
20 the money is not there, don't put the check through. I
21 filled in the hold check request, gave it to my manager,
22 and they were not signed.

23 Q. Okay.

24 A. That's what it meant.

1 long that time was at this point.

2 Q. Okay. Did you know at the time what you meant
3 by "for some time"?

4 A. Well, certainly.

5 Q. Okay. You don't recall how long it was at
6 this point in time, though. Is that right?

7 A. It was not years, but it was not days. I
8 can't recall exactly, no. I'm sorry.

9 Q. Okay. Was it a matter of several months, do
10 you know, or weeks? Can you pinpoint it at all?

11 A. As I indicated, no, I can't at this point.

12 Q. Okay. What did you mean by "semi" practice?

13 A. It was at the discretion of the manager.

14 Q. Okay. Going to the next paragraph, it says,

15 "Checks that have been returned NSF have been directed to
16 be 'put back on.' Attempts to contact the debtor have
17 and have not happened."

18 Do you recall how long that practice was
19 followed at the time that you wrote the memo?

20 A. I'm sorry. Please rephrase that. I'm sorry.

21 Q. At the time that you wrote the memo -- this is
22 January 21, 2004 -- was this practice that you
23 mentioned -- and I'll read to you again -- how long was
24 this practice going on? Here's what the statement is.

1 Q. Okay. Then the last paragraph says, "This has
2 been a 'semi' practice for some time, and I have only
3 started notating the accounts in my que the last few
4 months." Does that refer to all the practices in the
5 memo, do you know, or just the last one you talked about
6 which dealt with the hold check request?

7 A. I don't think that was all the practice. I'd
8 have to look at the memo and read it.

9 Q. Okay. Well, let me run through it again for
10 you.

11 The first sentence just says, "Per your
12 request, the following is a summary of the phone
13 conversation with Ted Fox."

14 The second paragraph, it says -- for
15 each one of these, maybe you can tell me, as we go
16 through them, was this the semi practice for some time or
17 not. It says, "In conversations with debtors requesting
18 a check not be deposited have resulted in the check not
19 being pulled per manager direction."

20 A. Was that a semi practice?

21 Q. Yes.

22 Was that a semi practice for some time
23 when you wrote this memo?

24 A. It had been occurring. I can't say as to how

1 "Checks that have been returned NSF have been directed to
2 be 'put back on.' Attempts to contact the debtor have
3 and have not happened."

4 A. The practice I can't say exactly how long, but
5 it had been becoming more and more frequent.

6 Q. Okay. Was it a matter of several months that
7 it had been happening or a matter of a year? Do you have
8 any idea at all?

9 A. I can't give you a good answer on that. I'm
10 sorry.

11 Q. Okay. Then the next one is: "We, as a group,
12 have at times been told 'no checks are being pulled,'
13 which led to no attempt to pull or change check dates
14 knowing they would possibly be returned."

15 Can you tell me how long that practice
16 had been going on at the time you wrote the memo?

17 A. Again, I can't be definitive on that. I'm
18 sorry.

19 Q. Okay. I'm not asking to be definitive.

20 Can you give me any idea at all
21 ballpark? Was it months? Years? Days? If you can.
22 I'm not asking you to speculate.

23 A. I would say months.

24 Q. Okay. When you wrote this memorandum which

11 (Pages 38 to 41)

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1 Q. Okay. I'm talking about the resubmission of
 2 checks for deposit, an NSF check. I think we've
 3 established that you filled out a form to do that. That
 4 was submitted to the manager. Then the manager had the
 5 check resubmitted. Correct?

6 A. Correct.

7 Q. Okay. Did Valerie Hue ever ask you to submit
 8 an NSF check for payment?

9 A. There -- yes. Actually, yes. In a sense,
 10 yes, because checks had been put back through.

11 Q. Okay. Well, can you explain what you mean by
 12 that?

13 A. I've got a form to fill -- like I said, the
 14 forms weren't always used. I have a check that I
 15 verified. I want to put the check back through. I
 16 verified the money is there. The debtor has already
 17 verified it. I filled out a form, and I gave it to
 18 Valerie Hue and/or Kim or whoever the manager was. But I
 19 gave it to Valerie Hue. And that form would be
 20 submitted. And the redipping, as we called it, was done.
 21 There were checks that were a problem where -- were put
 22 back on.

23 Now, did -- was Valerie asking me to
 24 fill out a form and resubmit it instead of my asking her

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1 happened."

2 Does that refresh your recollection
 3 about anything that Valerie Hue told you to do that
 4 violated the policy regarding resubmission of NSF checks
 5 for payment?

6 A. Well, yes, it does. And that was on my mind.
 7 However, I don't have a good recollection of that. I
 8 can't state whether I -- the precise issues about that or
 9 not. I remember something about that happening, but I
 10 can't give you direct information on it. I can't recall
 11 that. I'm sorry.

12 Q. Okay. Again, the way I understand this is
 13 that the request for redipping the check came from the
 14 collector, but it was actually the manager that approved
 15 it. I understand through another deposition someone else
 16 actually sent the approved request onto another office
 17 where the check actually was redipped.

18 What I'm trying to get at here is: It
 19 says that checks had been directed to be put back on.
 20 But it wouldn't have been you that resubmitted a check.
 21 It would only be you that attempted to do the
 22 verification. Correct? That was your role in it -- to
 23 attempt to do the verification and then submit the form.
 24 Then the manager would decide.

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1 to do it? I can't remember if that happened or not. I'm
 2 sorry.

3 Q. Okay. Well, what I'm trying to get at is:
 4 What did Valerie Hue instruct you to do, if anything at
 5 all, that you believe was a violation of the resubmission
 6 of NSF check policy?

7 A. To basically do nothing on checks that I knew
 8 were no good that I wanted to pull.

9 Q. Okay. So it had to do with checks that you
 10 believed were not going to be good. Isn't that something
 11 different than the resubmission of an NSF check?

12 A. Correct.

13 Q. Okay. I'm not asking about that. We haven't
 14 talked about sandbagging and that whole issue. What
 15 we've talked about is -- and what I'd like to know about
 16 is whether Valerie Hue ever instructed you to violate the
 17 policy regarding the resubmission of NSF checks for
 18 payment.

19 A. I can't say yes or no. I'm sorry. I can't
 20 recall.

21 Q. Okay. I want to refer back to the exhibit
 22 again and read this sentence to you: "Checks that had
 23 been returned NSF have been directed to be 'put back on.'
 24 Attempts to contact the debtor have and have not

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1 Is all that correct?

2 A. I believe so.

3 Q. Okay. So when you say in your statement
 4 checks had been directed to be put back on, can you
 5 explain what you mean by that vis-a-vis anything that
 6 Valerie Hue might have told you that was improper?

7 A. I mean -- you're referring to NSF checks.
 8 Correct?

9 Q. Yes.

10 A. I can't recall. I'm sorry.

11 Q. Okay. I'm really not asking you to recall at
 12 this point. I'm just asking if you can tell me what your
 13 understanding of this is -- why you would be saying that
 14 she directed you to put the checks back on.

15 MS. FITE: Object to form. If we're
 16 going to keep talking about the document, maybe we should
 17 fax over a copy to the witness, especially if we're not
 18 going to read it verbatim.

19 MR. HOMER: Well, I'll read it verbatim.
 20 BY MR. HOMER:

21 Q. It says, "Checks that have been returned NSF
 22 have been directed to be 'put on back.'"

23 A. When I wrote that, I knew what I was talking
 24 about. I'm not saying I don't know. I don't recall.

1 I'm sorry.

2 Q. Okay.

3 A. When I wrote that, I have to assume that I was
4 instructed to put checks back on.

5 Q. I understand you may not recall all the detail
6 about it. But do you have an understanding now of how
7 Valerie Hue was directing you to put the check on when in
8 fact she was the one that had to approve the check?

9 MS. FITE: Object to form. It's a
10 mischaracterization. "Have been directed to be put back
11 on" doesn't mean that she directed him to put them back
12 on.

13 MR. HOMER: Okay. Well, let's clear
14 that up.

15 BY MR. HOMER:

16 Q. Does this statement refer to something that
17 Valerie Hue told you to do to put the checks back on?

18 A. The statement -- read the statement again.

19 I'm sorry.

20 Q. It says, "Checks that have been returned NSF
21 have been directed to be 'put back on.'" Were you saying
22 in that statement that Valerie Hue told you to put the
23 checks back on?

24 A. Based on the statement, I can't recollect.

1 What did she instruct you to do that you
2 felt was improper as it relates to this direction to be
3 "put back on"?

4 A. I can speculate. That's all I can do. And
5 I'm not sure that's what you want me to do.

6 Q. Well, did she ever tell you to fill out a form
7 and put false information in the form?

8 A. No.

9 Q. Pardon?

10 A. No.

11 Q. Was there anything that she directed you to do
12 that you believe was a violation of the policy regarding
13 the resubmission of NSF checks for payment?

14 A. You're asking if there's anything that she
15 directed me to do. I had no control on NSFs being put
16 back in. I would verify them and request it. As far as
17 that, I had no control of handling how they went from
18 there. That was her handling. She handled that.

19 Q. So is the answer no to the question?

20 A. Is the answer -- read the question again. I
21 want to make sure I'm giving you the right answer. I'm
22 sorry.

23 MR. HOMER: Okay. The court reporter is
24 going to read back the question.

1 But based on the statement, Valerie Hue would have been
2 the one to tell me. She would have been the only one
3 authorized.

4 Q. Okay. So if she told you to put the checks
5 back on, what's your understanding now of what that means
6 given the fact that she was the one that actually
7 approved the resubmission of the checks?

8 MS. FITE: Object to form. He's already
9 said he doesn't recollect.

10 MR. HOMER: I'm not asking for
11 recollection. I'm just asking if he has any
12 understanding of what that might mean.

13 THE WITNESS: What it might mean?

14 Repeat that again.

15 BY MR. HOMER:

16 Q. It says that checks that have been returned
17 NSF have been directed to be put back on.

18 A. Okay.

19 Q. What was it regarding that that Valerie Hue
20 said to you that you believe was improper if she did say
21 something you believe to be improper?

22 A. You want to know what I believed to be
23 improper about that?

24 Q. Yes.

1 THE WITNESS: Okay.

2 (The reporter read the requested
3 portion.)

4 MR. HOMER: "She" referring to Valerie
5 Hue.

6 THE WITNESS: Okay. Was there anything
7 she asked me to do that I considered to be a violation of
8 the policy? No. Because I didn't do anything --

9 MR. HOMER: Okay.

10 THE WITNESS: -- of NSF checks.

11 BY MR. HOMER:

12 Q. Okay. Mr. McQuisten, during your time in the
13 Dover office, were you ever disciplined for any issue?

14 A. Well, I guess.

15 Q. Do you recall what the discipline was for?

16 A. Oh, boy. Failure to record -- failure to
17 identify nonrecorded line. Gosh, I don't know. I can't
18 think beyond -- I'm sure there's probably something else.
19 I don't know if it was -- something along those lines.

20 Compliance violation, maybe.

21 Q. Okay. Was Valerie Hue the one that imposed
22 the discipline?

23 A. I can't remember if it was her or someone
24 else.

Page 1			Page 3		
IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF DELAWARE					
VALERIE HUE,))) Plaintiff,) CIVIL ACTION FILE) vs.) NO. 05-225-KAJ) NCO FINANCIAL SYSTEMS, INC.,) A Delaware corporation,) trading as NCO FINANCIAL) COMMERCIAL SERVICES,)) Defendant.))			1 13 Memorandum to Dave McQuisten from Valerie Hue, dated 1-12-04, 1 page 235		
			2 14 Memorandum regarding 59 Checks/Redips, 1 page 238		
			3 15 Report, 10 pages 242		
			5 16 Composite exhibit, 41 pages 244		
			6 17 January 2004 Dina Loft Policy Violations, 3 pages 270		
			7 8 9 10 11 12 13 14 15 16 17 18 19		
Deposition of KATHY OBENSHAIN, taken on behalf of the Plaintiff, pursuant to the stipulations contained herein, in accordance with the Federal Rules of Civil Procedure, before G. Paige Alexander, Certified Court Reporter, at 56 Perimeter Center East, Suite 100, Atlanta, Georgia, on the 16th day of March, 2006, commencing at the hour of 10:45 a.m.			20 21 22 INDEX TO EXAMINATION 23 Examination by Mr. Homer 5 24 Examination by Mr. Israel 272 25 Re-examination by Mr. Homer 280 26 Re-examination by Mr. Israel 283		
* * *					
D'AMICO GERSHWIN, INC. Certified Court Reporters 11475 West Road Roswell, Georgia 30075 (770) 645-6111					
Page 2			Page 4		
1 INDEX TO EXHIBITS			1 APPEARANCES OF COUNSEL:		
3 Plaintiff's Exhibit Description Marked/First Identified			2 3 On behalf of the Plaintiff: 4 JEREMY W. HOMER Attorney at Law 5 Parkowski, Guerke & Swayze, P.A. 116 W. Water Street 6 P. O. Box 598 Dover, Delaware 19903-0598 7 Tel: (302) 678-3262 Fax: (302) 678-9415 8 email: jhomer@pgslegal.com		
5 1 Email from Kathy Obenshain to Valerie Hue, dated 9-24-02, 2 pages 183			9 10 On behalf of the Defendant: 11 DAVID ISRAEL Attorney at Law 12 Sessions Fishman & Nathan, LLP Lakeway Two, Suite 1240 13 3850 North Causeway Boulevard Metairie, Louisiana 70002-1752 14 Tel: (504) 828-3700 Fax: (504) 828-3737 15 email: disrael@sessions-law.com		
6 2 Memorandum from Phil Weaver to All Managers, dated 10-25-02, 1 page 185			16 17 18 19 20 21 22 23 24 25		
8 3 Email from Kathy Obenshain to Commercial ops managers, et al, dated 1-30-04, 2 pages 186			-- -- (Pursuant to Article 8.B of the Rules & Regulations of the Board of Court Reporting of the Judicial Council of Georgia, a disclosure form was submitted to all parties/counsel for signature and attachment to the original transcript in this matter.)		
10 4 Email from Phil Weaver to Commercial ops managers, dated 3-05-03, 2 pages 192					
12 5 Memorandum to Kathy Obenshain from Brian Laiche, dated 7-15-03, 1 page 194					
14 6 Email from Kathy Obenshain to Brian Laiche, et al, dated 8-20-03, 1 page 196					
16 7 Memorandum to All Collectors from Mike Scher, dated 8-07-03, 1 page 198					
17 8 Email from Kathy Obenshain to Dina Loft, dated 1-19-04, 1 page 199					
19 9 Memorandum to Dina Loft, et al, from Kathy Obenshain, dated 1-22-04, 1 page 206					
21 10 Memorandum to All Collectors from Steve Hallam, dated 1-20-04, 1 page 207					
22 11 Position Statement, Bates numbered 000080 through 000121, 43 pages 211					
24 12 Email from Kathy Obenshain to Dina Loft, dated 1-19-04, 1 page 232					

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1 (Pages 1 to 4)

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<p>1 A -- you're interested in specifically?</p> <p>2 Q I am interested in that, yes.</p> <p>3 MR. ISRAEL: If you want to. I don't think</p> <p>4 that --</p> <p>5 A Sure.</p> <p>6 BY MR. HOMER:</p> <p>7 Q In your severance agreement, did you make any</p> <p>8 promises to cooperate if there were any issues that arose</p> <p>9 about your work while you were at NCO?</p> <p>10 A You are asking me if at the time I left that</p> <p>11 I signed any agreements stating --</p> <p>12 Q No, it doesn't have to be a signed agreement.</p> <p>13 Was there some understanding when you left</p> <p>14 the company that if some issue came up that involved</p> <p>15 something that you were involved in while you were with</p> <p>16 NCO, that you would cooperate with the company in dealing</p> <p>17 with the issues?</p> <p>18 A Was I asked if I would cooperate with the</p> <p>19 company if any issues came up after my employment.</p> <p>20 Q Yes.</p> <p>21 A Is that what you are asking me?</p> <p>22 Q Right.</p> <p>23 A Yes.</p> <p>24 Q Did you enter an agreement -- did you agree</p> <p>25 that you would cooperate?</p>	<p>1 condition.</p> <p>2 MR. ISRAEL: He's got the right to explore</p> <p>3 whether you have any bias. That's what he's</p> <p>4 looking for.</p> <p>5 THE WITNESS: All right.</p> <p>6 A Yes, I did agree if anything came -- that if</p> <p>7 something came up about the period of time when I was</p> <p>8 working with NCO, would I be willing to come forward with</p> <p>9 answers or -- and handle any concerns.</p> <p>10 BY MR. HOMER:</p> <p>11 Q Was that put in writing, that agreement?</p> <p>12 A Was that put in writing in the agreement; as</p> <p>13 I recall, yes. But I don't have the agreement so . . .</p> <p>14 Q NCO would have the agreement. Is that fair</p> <p>15 to say?</p> <p>16 A Would NCO have the agreement?</p> <p>17 Q You don't know probably.</p> <p>18 A Yeah.</p> <p>19 Q We will follow up on that.</p> <p>20 A I presume they do.</p> <p>21 Q Could you tell me what positions you held</p> <p>22 while you worked for Millican & Michaels and NCO.</p> <p>23 A What positions I held while I worked there;</p> <p>24 starting with the time it was Millican & Michaels, I was a</p> <p>25 collector. I was a mid-balance manager. I was also a</p>
Page 14	Page 16
<p>1 A I think I've already answered that.</p> <p>2 Q No. I haven't heard the answer.</p> <p>3 Could you answer it now.</p> <p>4 A Are you asking me if I signed a written</p> <p>5 agreement or was --</p> <p>6 Q No.</p> <p>7 A -- there discussion concerning it?</p> <p>8 MR. ISRAEL: He's asking, whether it's</p> <p>9 written or oral, was there an understanding that</p> <p>10 if you were called upon relating to something</p> <p>11 that related to your working at NCO, would you be</p> <p>12 available.</p> <p>13 A Would I be available?</p> <p>14 MR. ISRAEL: Is that fair?</p> <p>15 MR. HOMER: Yes.</p> <p>16 A If I'm not mistaken, that's part of the</p> <p>17 confidentiality agreement, that I not discuss the terms of</p> <p>18 the agreement.</p> <p>19 MR. ISRAEL: Let me say it this way to save</p> <p>20 time.</p> <p>21 If you can remember whether or not, that's</p> <p>22 okay. If you can remember whether was a term or</p> <p>23 condition, then I think it's okay to tell him</p> <p>24 that.</p> <p>25 A If I can remember whether it was a term or</p>	<p>1 client-specific manager. I was --</p> <p>2 MR. ISRAEL: On the collections side?</p> <p>3 THE WITNESS: On the collections side,</p> <p>4 correct.</p> <p>5 A Client-specific manager, managing collectors;</p> <p>6 specifically, we had one client. I was a general</p> <p>7 collection manager.</p> <p>8 BY MR. HOMER:</p> <p>9 Q How long were you a general collection</p> <p>10 manager?</p> <p>11 A A general collection manager, at least -- oh,</p> <p>12 I'm bad with dates, but I think at least two years.</p> <p>13 Q Were you in Metairie at that time?</p> <p>14 A Was I in Metairie; yes.</p> <p>15 Q What were the dates, do you remember</p> <p>16 approximately?</p> <p>17 A I am very -- you are asking me for the dates?</p> <p>18 Q If you know.</p> <p>19 A I'll be honest with you, I --</p> <p>20 Q I don't need exact dates, but just roughly --</p> <p>21 A I would say for approximately '90 through --</p> <p>22 oh, wait; I take that back. Sorry. 2002 -- no; 2000 to</p> <p>23 2002.</p> <p>24 Q Okay.</p> <p>25 A Uh-huh.</p>

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4 (Pages 13 to 16)

Hue vs. NCO Financial Systems

3/16/06 - Kathy Obenshain

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<p>1 Q What other positions did you hold with NCO?</p> <p>2 A What other positions did I hold with NCO; from that position, I was moved to the vice president of collections for the division.</p> <p>5 Q Was that the commercial division?</p> <p>6 A Commercial division, correct.</p> <p>7 Q What was the time period that you held that position?</p> <p>9 A From -- the period that I held that position would have been from 2002 to 2004.</p> <p>11 Q That was the last position you had with NCO?</p> <p>12 A That was the last position I had with NCO, correct.</p> <p>14 Q During the course of your employment, have you ever received any education or training regarding laws that dealt with discrimination?</p> <p>17 A Have I personally ever received any training about the laws that dealt with discrimination while I was at NCO?</p> <p>20 Q Yes.</p> <p>21 A Yes.</p> <p>22 Q Can you describe what training you received.</p> <p>23 A What training did I receive; I received training specifically from our compliance department, headed by Dave Israel, Dave Israel's office; additional</p>	<p>1 Q Did you review documents? Did you discuss the deposition with Mr. Israel? Did you do anything else to get ready for the deposition?</p> <p>4 A Did I discuss with Mr. Israel -- did I have a discussion with Mr. Israel; yes, okay.</p> <p>6 Q When was that discussion?</p> <p>7 A When was the discussion I had with Dave Israel; yesterday.</p> <p>9 Q Did you have more than one discussion with him about it?</p> <p>11 A Did I have more than one discussion with Dave Israel; the additional discussions that I've had with Dave Israel were regarding the timing of when and where --</p> <p>14 Q So you had just --</p> <p>15 A -- and how.</p> <p>16 Q So you just had one discussion about the substance of the deposition, which was yesterday?</p> <p>18 A I only had one discussion with Dave, as best as I recall. I mean, we talked about when we were setting up the deposition, you know, the approximation of how many hours it would take, details like that.</p> <p>22 Q How many hours did you discuss the deposition yesterday with Mr. Israel?</p> <p>24 A How many hours did he we discuss the deposition might be; well, let's see, Dave said something</p>
<p style="text-align: center;">Page 18</p> <p>1 training that we received was from the HR department of NCO.</p> <p>3 Q Can you give me some sense of how many hours of training you received.</p> <p>5 A How many hours of training I received; I would say equivalent to at least four days.</p> <p>7 Q Was that over the ten-year period you worked or --</p> <p>9 A Minimum, minimum. I mean, if you are talking about -- if -- you are talking about specific hours spent training in a -- in an environment like this, or what are you asking? Or just ongoing discussions concerning --</p> <p>13 Q I was really trying to find out if this four days' worth of training you had took place over a ten-year period, or did it take place over a shorter time period?</p> <p>16 A Over a ten-year period or a shorter time period; probably a shorter time period.</p> <p>18 We were consistently having discussions and conference calls with our compliance department, with our division heads about anything that went on with regard to human resources.</p> <p>22 Q Can you tell me what you did to prepare for today's deposition.</p> <p>24 A What did I do to prepare for today's deposition? What specifically are you wanting to know?</p>	<p style="text-align: center;">Page 20</p> <p>1 to the effect -- I said, a late plane flight out. That's all.</p> <p>3 Q No, but can you tell me -- did you discuss with Mr. Israel the subjects that could come up during the deposition today?</p> <p>6 A Did I discuss with Mr. Israel the subjects --</p> <p>7 MR. ISRAEL: Let's take it question by question --</p> <p>9 A Yes.</p> <p>10 MR. ISRAEL: -- because I don't want to breach privilege.</p> <p>12 But you can tell him did we discuss subjects. You can go ahead and tell him that.</p> <p>14 A Yes, we discussed subjects.</p> <p>15 BY MR. HOMER:</p> <p>16 Q How much time did you spend discussing the subjects?</p> <p>18 A How much time did --</p> <p>19 MR. ISRAEL: You can answer that.</p> <p>20 A How much time; let's see, well, we were together a couple of hours last night, but a lot of that was social time having dinner. So I would say probably less than -- less than a half hour discussing this matter.</p> <p>24 We also spent time this morning. We got together at 8:30. That's not the only thing we've been</p>

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<p>1 doing since then. So maybe another -- maybe another hour, 2 hour and a half max.</p> <p>3 BY MR. HOMER:</p> <p>4 Q Okay.</p> <p>5 A Maybe.</p> <p>6 Q Did you review any documents in preparation 7 for the deposition?</p> <p>8 A Did I review any documents; yes.</p> <p>9 Q Which documents did you look at?</p> <p>10 A Which documents did I specifically look at; 11 those are the documents.</p> <p>12 Q You have a stack of documents over there --</p> <p>13 A Uh-huh.</p> <p>14 Q -- about 2 inches thick?</p> <p>15 A Right.</p> <p>16 Q How much time did it take you to go through 17 those documents?</p> <p>18 A How much time did it take me to go through 19 the documents; well, not very long, maybe two hours.</p> <p>20 Q What is your current job?</p> <p>21 A What is my current position here? Is that 22 what you want to know, here?</p> <p>23 Q Yes.</p> <p>24 A I am the sales manager at C2C Resources.</p> <p>25 Q What does that company do?</p>	<p>1 Q Let me just start over. 2 You haven't had any discussions with NCO 3 about possibly testifying at the trial in this case. Is 4 that a true statement?</p> <p>5 A Have I --</p> <p>6 MR. ISRAEL: Wait; wait. You don't have to 7 discuss what you've discussed with me or what 8 you've discussed with Elizabeth.</p> <p>9 THE WITNESS: Okay.</p> <p>10 MR. ISRAEL: So if you've discussed 11 something like that with someone from NCO, feel 12 free to talk about it.</p> <p>13 BY MR. HOMER:</p> <p>14 Q Can you explain why it is that -- I know you 15 have this agreement. Is there any other reason why you 16 are cooperating with NCO in connection with this matter?</p> <p>17 A Why would I be cooperating with NCO on this 18 matter?</p> <p>19 Q Yes.</p> <p>20 MR. ISRAEL: We haven't confirmed that 21 she's cooperating with NCO.</p> <p>22 MR. HOMER: Well, she said she's spent 23 hours looking at documents; she's met with you; 24 she's here today.</p> <p>25 MR. ISRAEL: Well, you subpoenaed her.</p>
<p>1 A What does C2C Resources do; C2C Resources is 2 a commercial collection company.</p> <p>3 Q I understand that you -- or NCO plans to have 4 you attend the trial in this case if there is a trial. Is 5 that your understanding?</p> <p>6 A NCO plans on having me attend the trial?</p> <p>7 Q Yes.</p> <p>8 MR. ISRAEL: What is the basis of that 9 understanding?</p> <p>10 MR. HOMER: You told me that.</p> <p>11 MR. ISRAEL: No, I didn't.</p> <p>12 MR. HOMER: Either you did or Elizabeth.</p> <p>13 MR. ISRAEL: I don't believe, but I don't 14 know.</p> <p>15 We haven't discussed that.</p> <p>16 You don't have to discuss that with him.</p> <p>17 BY MR. HOMER:</p> <p>18 Q Right now you are not aware that you might be 19 going to a trial in the case?</p> <p>20 A No.</p> <p>21 Q Well, I didn't ask that question correctly.</p> <p>22 Are you aware that you may be going to trial 23 in this case?</p> <p>24 A Am I aware that I may be going to the trial 25 in this case?</p>	<p>1 A Right. And I -- okay.</p> <p>2 BY MR. HOMER:</p> <p>3 Q Let me ask the question: Are you cooperating 4 with NCO in this lawsuit?</p> <p>5 A Am I cooperating with NCO in the lawsuit; I'm 6 giving testimony that -- information -- questions asked 7 about a specific wrongdoing while I was in the position of 8 responsibility.</p> <p>9 Q Well, I know, but could you answer the 10 question? Do you believe you are cooperating with NCO in 11 connection with --</p> <p>12 A Do I believe I'm cooperating --</p> <p>13 Q -- this --</p> <p>14 A -- with NCO in connection --</p> <p>15 Q Let me finish -- in connection with this 16 litigation?</p> <p>17 A Do I believe I'm cooperating with NCO; I'm 18 giving facts concerning Valerie Hue's action at NCO. You 19 asked me to give you that information. That's why you 20 asked me here today, and, indeed, I feel very strongly 21 about what was done.</p> <p>22 Q You understand you weren't required to review 23 the documents; you weren't required to meet with 24 Mr. Israel; correct?</p> <p>25 A Do I understand I wasn't required to review</p>

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